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**Instrumentalism, Power Maximisation, or
Legitimation? Understanding the European
Commission's Response to the Global
Financial Crisis, 2008-10**

Cleo Davies

**PhD in Politics
The University of Edinburgh
2019**

Declaration

I declare that this thesis has been composed solely by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where stated otherwise by reference or acknowledgement, the work presented is entirely my own.

Cleo Davies

29 August 2019

A handwritten signature in black ink, appearing to be 'Cleo Davies', written in a cursive style.

Summary

In October 2008, as Europe and the world stood in the midst of unprecedented turmoil on global financial markets, the European Commission launched a process that resulted in a proposal to create a European System of Financial Supervision (ESFS) in the EU; these proposals included the regulations to create three European Supervisory Authorities (ESAs) on Financial activities. These reforms generated a lot of scholarly output between 2009 and 2011. Studies focused on the suitability of the solutions put forward by the Commission or the preferences of the member states in shaping the reforms. But despite the more prominent role of the Commission and other International Organizations (IOs) in decision-making processes and governance frameworks after the Global Financial Crisis (Helleiner, Pagliari, and Zimmermann 2010) the Commission's motivations for action in designing the post Global Financial Crisis supervisory reforms and framework for governance remained under-investigated.

Recently, European integration scholars have sought to rebalance the intergovernmental reading of European decision-making post Global Financial Crisis by revisiting and expanding the conceptual definition of supranational entrepreneurship (Howarth and Roos 2017; Bauer and Becker 2014). However, an in-depth empirical investigation of the Commission's motivations for action is lacking. Furthermore, this literature tends to assume that the Commission is motivated by delivering higher technical efficiency and facilitating collaboration (instrumental), or by rational choice calculations to maximize its influence vis a vis other institutions or the member states (power maximizing). Less explored is the possibility that the Commission's actions may be guided by a concern for securing legitimacy in its environment.

In contrast to predominant accounts of organizations as motivated by power maximizing or instrumental goals, this thesis draws on theories that view organizations as concerned first and foremost by survival and legitimacy (Powell and DiMaggio 1991), and as deriving organizational legitimacy from mirroring norms and expectations in their environments (Brunsson 2002; Scott et al. 1994). This approach

allows for the investigation of the cognitive dimension of preference formation inside the Commission; and it allows for a conceptualisation of organizational fields in which boundaries between organizations and their environment are fluid and norms are mutually constitutive. Using an interpretivist approach, the analysis focuses on understanding the perspective of those people involved in decision-making to investigate different motivations guiding action: power-maximization concerns to increase influence, instrumental concerns to provide a solution to the problem revealed by the crisis, and legitimacy concerns to conform to perceived expectations. Through interviews and document analysis, this thesis offers a rigorous empirical analysis of the different motivations that guided the Commission's actions in the decision-making process to create the three European Supervisory Authorities.

The analysis suggests that the Commission was driven by a richer set of substantive goals than is assumed or hypothesised by instrumental and power-maximization approaches. Though valuable, these approaches to organizational behaviour provide a truncated or narrow platform for exploring motivations for action: they tend to black box preferences and don't take into account the cognitive dimensions in decision-making thereby also portraying an overly schematic relationship of the organization and its environment. The approach adopted in his thesis develops a more nuanced theoretical account of the study of motivations for action in the Commission with insights for the study of behaviour in international organizations (IOs) more generally.

Acknowledgements

I thank my supervisors, Christina Boswell and Iain Hardie for the work and collaboration. I thank them for their support and input at all the different stages of the PhD process, from the initial application to Edinburgh University through to the closing stages. It has been a privilege to carry out the research at Edinburgh University, with excellent facilities, support services and research communities. The opportunities given me to present my research, and engage with others all contributed to the journey. I also want to thank Anne, Ben and Emma, as well as Terry who always welcomed me on my numerous visits to Brussels.

A PhD is not only an intellectual journey; it is also an emotional one. It would not have been possible without the support of my sisters, Emily, Lily and Bess. In Edinburgh, there have been many people, not least amongst the community of PhD students, that have been there along the way. My special thanks to Saskia Smellie and Consuelo Thiers for having been there at the best, but also the most difficult times. I want to thank Alessio, Anna, Ewan and Cat for their patience and the good company; and because, after all, they had to live with me.

My last words go to Helen, who taught me the importance of resilience.

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List of acronyms

Committee for Economic and Monetary Affairs (ECON Committee)

Directorate-Generals of the European Commission (DGs)

Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG Fisma)

Directorate-General for Internal Market and Services (DG Markt)

European Central Bank (ECB)

European Monetary Union (EMU)

European Parliament (EP)

European System of Financial Supervision (ESFS)

Europeans Systemic Risk Council (ESRC)

Financial Services Action Plan (FSAP)

Inter Institutional Monitoring Group (IIMG)

International Monetary Fund (IMF)

Member of the European Parliament (MEP)

National Competent Authorities (NCAs)

List of terms and glossary

For clarity purposes, the following list includes the information about these documents/terms and the shorthand I use for referring to them.

de Larosière Report:	Report of the High-Level Group on Financial Supervision in the EU, chaired by Jacques de Larosière, and published on the 25 th of February 2009
March 2009 Communication:	The European Commission's Communication for the Spring European Council 'Driving European Recovery', published on the 3 rd of March 2009
May 2009 Communication:	The European Commission's Communication 'European Financial Supervision', published on 27 th of May 2009
ESA legislative proposals:	The three proposals for Regulation on the establishment of the EBA, the ESMA, and the EIOPA, published on the 23 rd of September 2009
Lamfalussy Report:	Final Report of the Committee of Wise Men on the Regulation of European Securities Markets, chaired by Alexandre Lamfalussy, published on the 15 th of February 2001
Lamfalussy Committees:	The Committees were created as part of the Lamfalussy process, in the early 2000s, to support the rolling out of the 1999 Financial Services Action Plan (FSAP). The Lamfalussy Committees were secretariats composed of seconded staff from National Competent Authorities (NCAs) dealing with supervision in the member states. Based in Paris, Frankfurt and London, they each were legal entities of the respective countries in which they were located with no European mandate or allocated

European budget. These Committees were the Committee of European Securities Regulators (CESR) based in Paris, the Committee of European Banking Supervisors (CEBS) based in London, and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) based in Frankfurt.

Introduction

Jacques de Larosière has done his job with professionalism and expertise and he has provided the menu for the Commission to choose from.

Now it is for the Commission to assess and act. The first stage of the process is over. The second stage starts today. [...]

But this is not about one meeting leading to another meeting or one report to another report. The Commission is determined to act. I am determined that the European Union should move forward this year with substantial reforms. We must not miss the chance to restore lasting confidence in the European and global financial system. (Barroso, 25 February 2009).

These are the words of the President of the Commission at the time, Jose Manuel Barroso, at a joint press conference on the 25th of February 2009. He was welcoming and commenting on the High Level Expert Group Report on Financial Supervision in the European Union and was outlining the Commission's intentions and purposes building on the report. Jose Manuel Barroso made the decision to call upon the group of independent experts in October 2008 as Europe and the world stood in the midst of unprecedented turmoil on global financial markets. Following the bankruptcy of the American investment bank Lehman Brothers in mid-September 2008, the banking system nearly collapsed and autumn 2008 saw a long series of government bank bailouts in the US and the EU. Financial market supervision went from being a technical issue to making headlines in mainstream press and topping the political agenda.

The High Level Expert Group's Report, also referred to as the de Larosière Report, became the building block for the Commission's proposal to create a European System of Financial Supervision (ESFS) in the EU; it included the proposals for regulations to create three European Supervisory Authorities (ESAs) on Financial activities¹,

¹ The ESFS is composed of two institutional pillars: the creation of three European Supervisory Authorities (ESAs) for micro-prudential supervision - The European Banking Authority (EBA), the

published on the 23rd of September 2009. Both the de Larosière Report and the proposals to create the ESFS generated considerable scholarly output between 2009 and 2011². Articles were published in journals of European integration (Quaglia 2010a; Semmler and Young 2010; Begg 2009), journals on financial regulation and supervision (Teixeira 2011; Goddard, Molyneux, and Wilson 2009; Smits 2010; Helleiner and Porter 2010; Chatzimanoli 2011), law journals (Moloney 2010; 2011a; 2011b; Kern 2011; Schoenmaker 2009; Möllers 2010), and journals at national level (Szegegi 2012; Onado 2009; 2010; Lamada 2009; Valverde 2009; Marín and Valle 2009; Majone 2010). Publications on the de Larosière report and ESA reforms include many prominent scholars working on the governance of supervision in political science (Goddard, Molyneux, and Wilson 2009; Majone 2010; Moloney 2010; Helleiner and Porter 2010; Schoenmaker 2009; Quaglia 2010; Wymeersch et al 2012). But despite the volume of publications on these reforms, scholarship has not thoroughly investigated the Commission's behaviour and actions in this decision-making process. The focus was largely on evaluating the impact on the financial sector or how effective the governance proposals would be for completing the Single Market in financial services (Quaglia 2010). When actors' motivations in the decision-making process for reforms were investigated, the focus was on member states (Buckley and Howarth 2010; Begg 2009; Hennessy 2014) and reforms at European level have largely been analysed from an intergovernmental perspective. More broadly, very little scholarly interest has focused on the Commission's motivations for action in the context of the post Global Financial Crisis supervisory reforms.

Recently, European integration scholars have sought to rebalance the intergovernmental reading of decision-making post Global Financial Crisis by revisiting the conceptual definition of supranational entrepreneurship (Howarth and Roos 2017; Bauer and Becker 2014; Vilpišauskas 2013). These studies all focus on expanding the idea of European supranational organizations, including the

European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA); and the European Systemic Risk Board (ESRB) for macro-prudential supervision, under the aegis of the European Central Bank (ECB). This thesis concentrates on the three independent Authorities for micro-prudential supervision.

² In 2010-2011, scholarship had not yet shifted the analysis to the Eurozone debt crisis that became a central concern in the EU from early 2011 onwards.

Commission, as entrepreneurs, as a means to investigate its influence in shaping decision-making and policy. Michael Bauer and Stefan Becker (2014) seek to investigate in more depth the executive power of the European Commission, in a bid to better account for the emergence of a complex financial market governance structure post Global Financial Crisis. They argue that whilst its agenda-setting powers have decreased, it has become a central actor in making decisions work in matters of economic governance. Ramūnas Vilpišauskas (2013), drawing from neofunctionalist theory of European integration, examined how functional spill-overs created pressures for the Commission to push for the reinforcement of economic governance, especially for euro area member states and regarding fiscal policy. And Rachel Epstein and Martin Rhodes (2016) detected strong functional and political spill-over pressures encouraging both the Commission and the European Central Bank (ECB) to push for Banking Union. Banking Union was seen as a crucial step to promote financial market integration, to which both institutions were committed in their mandates. Alternatively, David Howarth and Mechtchild Roos (2017) draw largely from rational choice approaches to expand the concept of supranational entrepreneurs in the introduction to a Special Issue on Supranational activism in the *Journal of Contemporary European Research*. Though they allow for the strategic use of ideas and commitment to certain ideas as a motivator for action, they interpret activism of European institutions as organizations asserting their role, and making full use of law-based powers, either directly or indirectly, publicly or behind the scenes. The assumption behind these different studies is that the Commission acts to fulfil a mandate for increasing efficiency of transnational governance and/or to expand its autonomy and influence in decision-making and policy management.

These assumptions about organizational action are not specific to European integration scholarship. The huge development in numbers of international organizations (IOs) at both international and regional level, in particular since the 1990s, and their role in increasingly complex governance networks and decision-making, has led to empirical and theoretical work on the behaviour of IOs. Most of this scholarship focuses on the degree of influence IOs have in decision-making and policy-making. Traditionally, the literature on IOs understands the role of IOs as deriving from their formal structures

and mandates, and is premised on two possible sets of assumptions about motivations for action. First, this functionalist understanding of the role of IOs assumes that they act principally according to what they were designed to do. They act according to a problem-solving logic (or instrumental logic) to find the best possible solution to a problem, albeit taking into account possible political, financial or institutional constraints (Keohane 1989). Second, another strand of literature views IOs as driven by motivations to increase their competences and powers; it derives from the empirical observation that IOs deviate from what they were originally created to do, and explains this deviation based on the assumption that such actors are driven by motivations to increase policy influence and resources (staff and budgets). A power-maximization logic implies that actions are driven by motivations to gain power, maximize control, or expand an organization's mandate regardless of what they were created to do (Hawkins 2006; Hawkins and Jacoby 2006). To understand IOs' behaviour, research focuses on the formal organizational powers and structures, approaching IO behaviour as one of the variables influencing decision-making and policy outcomes. And assumptions are that actors are driven by the anticipated calculation of the results or returns of their actions (consequentialism), be it with the aim of finding the best solution to given problems or to maximize their influence and powers.

By contrast, a smaller number of studies that adopt constructivist approaches provide a basis for investigating IO behaviour from within. Drawing on the work of Weber on bureaucracies, authors Michael Barnett and Martha Finnemore theorize that IOs yield cognitive authority because of their claims to rational-legal authority and expertise (Barnett and Finnemore 2004; 1999). IOs are conceptualised as diffusers, defenders and advocates of norms (Park 2006). This literature introduced the theoretical argument that the characteristics of IOs shape their behaviour, and presents a compelling research avenue for studying IO behaviour from within. In the wake of Barnett and Finnemore's work, a large number of publications have followed that aim at measuring the influence of IOs starting from within the IO rather than focusing on formal structures and powers (for a recent comprehensive review, see Eckhard and Ege 2016). These investigate preference formation inside IOs, conceptualise intra-organizational contestation, and focus on the role of ideas and narratives in shaping

preferences and action. Nevertheless, this literature still assumes that IOs are driven by motivations to act according to rational-legal principles to fulfil their (socially constructed) mandate. Evidence that uncovers deviation from an organization acting according to these principles or failing to live up to these principles is considered “pathological” (Barnett and Finnemore 1999), “deviant” (Vaughan 1999) or “hypocritical” (Weaver 2008).

However, an alternative approach views organizational action as conforming to a set of institutionalised rules and beliefs in order to secure legitimacy in the organization’s environment. This understanding of organizational motivations is grounded in sociological approaches to organizational analysis in New Institutionalism (Powell and DiMaggio 1991; Scott 2008). This approach views organizational action as deriving from a logic of appropriateness: organizations are driven by a concern to respond to a situation based on normative expectations and rules of appropriateness, rather than on a calculation of expected consequences (March and Olsen 1984; 1989). Of concern in these early works of Johan Olsen and James March is a sociological approach to theorising organizational action that is grounded in the empirical observation that organizations don’t always appear to be acting according to utilitarian goals presumed in rational choice approaches. Instead, the authors emphasise interdependence of social and political institutions, complex process and historical inefficiency, and the centrality of meaning and symbolic action (March and Olsen 1984, 738). As in constructivist approaches that emerged in the 1990s, both in relation to IOs (Barnett and Finnemore 2004; 1999) and European public policy studies (for a review see Saurugger 2013), this approach understands action as driven by socially constructed beliefs and norms. But it is less concerned with explaining policy and decision outcomes, than with theoretically engaging with how the features of organizations, and their embeddedness in institutionalised environments, shape their action. Mainly applied to administrative and business organisations, this approach is relatively underdeveloped in the literature on IOs, in particular in relation to action in context of crises. With regards organizations at European level, public policy scholars have engaged with sociological approaches in empirical studies centred around the concept of legitimacy (and its deficit) at European level (Goetze and Rittberger 2010; Fouilleux

2004; Tonra and Christiansen 2004), and collective institutional cultures in the European Commission to explain institutional change (Cini 1996; 2015; Bauer 2008; Radaelli 1999; Ban 2013). A comprehensive study of the European Commission's motivations for action in decision-making, grounded in sociological approaches to organizational analysis in NI, may yet yield further insights. Indeed, such an approach adds a third possible understanding of motivations for organizational action, namely legitimacy concerns, alongside power-maximization and instrumental concerns, thereby providing for a richer set of goals in decision-making in the context of crisis. And it also provides interesting avenues for embedding a comprehensive empirical investigation of organizational motivations for action in a theoretical framework that supports the investigation of organizational motivations for action starting from the specific characteristics of international organizations.

I propose to investigate the different motivations for action in the specific case of the European Commission's decision to propose the creation of three European Supervisory Authorities in financial activities (ESAs) in 2008-2009. The focus is on the motivations for action inside the Commission in the build-up to the publication of the proposals, starting with the Commission's decision to establish the High Level Expert Group on Financial Supervision in the EU in October 2008 up until September 2009. In particular, I suggest that decision-making in the context of crisis provides a good lens for exploring the different logics of action: instrumental, power-maximization and legitimacy. As such, this in-depth case study brings a contribution to the investigation of motivations for action inside the Commission, that takes into account an understanding of motivations for action that has arguably been neglected in scholarship to do with responses to the Global Financial Crisis. Furthermore, exploring motivations for action at the agenda-setting phase and drafting phase of the legislation can help understand how the proposals take on the shape they do inside the Commission before they are published, thereby adding an empirical case study of internal decision-making in the Commission in the specific policy areas of supervisory governance of financial services.

Nevertheless, one of the major challenges of the empirical analysis is how to distinguish between action that is driven by goals to maximize power, a problem-

solving logic, or by a concern for organizational survival that derives from reflecting internalised norms and beliefs about appropriate behaviour. The challenges in distinguishing empirically between action driven by a logic of consequentialism and action driven by a logic of appropriateness has been highlighted by a number of scholars (Saurugger 2016; Goldmann 2005; Sending 2002). Motivations for action are not necessarily mutually exclusive; they may overlap or might be stronger or weaker at different stages of the decision-making process (March and Olsen 1998). The thesis puts forward a set of five indicators that support a more rigorous and systematic empirical investigation of different possible motivations for action. These indicators are observable characteristics that can be fairly reliably associated with, respectively, action that derives from instrumental, power-maximizing and legitimizing motivations for action. These indicators are a means to navigate the empirical analysis; they provide, quite literally, more or less strong indications of the existence of instrumental, power-maximization and legitimacy concerns underpinning action. The indicators aim at capturing observable characteristics of different motivations for action to do with *timing* (how swiftly an organization seeks to act), *audiences* (who the organization targets), *substance* (how the organization selects and uses input), *who is involved* (the human resources and knowledge that the organization draws on), and *steering* (how closely the organization guides deliberations). For each of these five indicators, I consider them in relation to each of the three theories of motivation: instrumental concerns, power-maximization concerns, and legitimacy concerns. By developing a systematic and comprehensive investigation of different possible motivations for action, the thesis offers a framework for the empirical investigation of motivations for action that captures the complexity of decision-making and some insight into the study of motivations for action inside IOs more broadly.

1. Questions arising from the literature on the ESA reforms

Overall, the literature on the decision to create the ESAs is largely rational choice and instrumentalist, which reflects a natural bias in the study of crisis (Posner 2007), and

is consistent with the cause-and-effect relationship provided by theories of crisis management and integration (Kamkhaji and Radaelli 2017). Most of the literature focuses on the policy content and on the institutional choice of the agency model; it views the crisis as confirming and/or revealing an urgent need for increased supranational coordination on matters of supervision. These studies are based on the premise that the Global Financial Crisis triggered the search and need for solutions to the transboundary crisis and for efficient coordination at transnational level. In these studies, motivations in the decision-making process are taken as a given rather than investigated: decision-making is aimed at policy choice. Scholarship assumes that the magnitude of the Global Financial Crisis led to a substantial response or shift in policy because the need for increased supranational coordination appeared self-evident. The few studies that have engaged with the motivations of actors in the decision-making process focused their analysis on explaining variation in the outcome based on member state preferences, thereby reflecting a largely intergovernmental reading of responses to the Global Financial Crisis (Howarth and Roos 2017). Implicit assumptions about the Commission's behaviour are mainly consequentialist: it puts forward the best solution available given the epistemic constraints (causes of the crisis remain complex and are still being analysed) and political constraints (member states preferences). In the one study that does engage with the Commission's motivations, Arndt Wonka and Berthold Rittberger (2010) view the Commission as seeking efficient solutions to the transboundary crisis and as exploiting the window of opportunity opened by the crisis to push for solutions that increase its influence. This, however, assumes a rather crude power-maximising motivation on the part of the Commission. As pointed out by Elliot Posner (2007), there is a natural bias in the study of crises towards instrumentalist and rational choice approaches. And the possibility that other motivations for action may have played out is under-investigated. This would include action that is driven by the need to signal action (symbolic politics) or to conform to expected behaviour (March and Olsen 2011), or forms of emulation and copying (DiMaggio and Powell 1991) rather than problem solving or power-maximization motivations for action.

However, these mainstream explanations raise some initial empirical puzzles. First, problem-solving approaches understand the Commission's actions as the logical

sequence in a process of integration defined by spill-over effects: the crisis highlighted the need for further integration in the area of supervision, itself a result of previous integration in financial services. The reforms would stem from a functional requirement – the existence of functional spill-overs in the context of the crisis – and a shift in member state preferences: member states changed their understanding of the degree of coordination and integration needed at European level and relied on the Commission to solve the problems of coordination. The Commission would then naturally have been called into action at that specific point in time to find the best possible solution for palliating the shortfalls of failed coordination in the area of financial market supervision. From this perspective, by setting up the High Level Expert Group, the Commission would be aiming to fulfil and further its mandate to find the best solution to the consequences of this spill-over effect. Why is it then that the Commission did not propose a more ambitious reform of supervisory governance at EU level? Though some legal scholars at the time argued that the proposal to create the ESAs was a departure from the governance *status quo* in that they represented an instance of “proper institution-building” (Chatzimanoli 2011), others bemoaned the lack of ambition (Lannoo 2009; Begg 2009; Smits 2010). In particular, a number of supervisory experts highlighted the weaknesses of the proposals in addressing the shortfalls of the Single Market and of cross-border supervision in the Eurozone (Lamfalussy 2009b; Wicks 2009; Ugeux 2009; Bini Smaghi 2009b). Considering that scholarship, policy-makers and experts had been pin-pointing the need to go beyond the institutional set-up of the Lamfalussy Committee system since the mid-2000s (Schoenmaker and Oosterloo 2008; 2005; IIMG 2007a), the need for cross-border supervision of transnational banks and financial institutions (Kudrna 2012; Schoenmaker and Oosterloo 2005; Cihák and Decressin 2007; ECOFIN 2008), the magnitude of the Global Financial Crisis and its consequences on European supervisory response mechanisms (Pauly 2009), and the total discrediting of the advocates of light-touch supervision (Haug and Taleb 2011; Palmer and Cerruti 2009; Black 2009; Turner 2009), notably in the more liberalised and financialised economies. Rational choice approaches explained the lack of ambitious reforms by analysing member state preferences and reluctance to transfer more power to the supranational level (Buckley and Howarth 2010; Hennessy 2014). Nevertheless,

though rational choice analyses of principal-agent relations can explain the watering down of the proposal, they fail to provide the analytical tools to investigate this apparent internalised self-restraint in the Commission's initial proposal. This calls for an investigation of the internal dynamics in the Commission of how the proposal came to be on the agenda.

The second puzzle has to do with approaches that assume the Commission's preferences for further integration are a given. Such approaches tend to view the Commission as a homogenous actor and gloss over the potential ideational conflicts that exist in the organization; they make the agenda-setting work inside the Commission appear overly straightforward. As noted by Laura Cram, "the process by which issues are accepted on to the agenda of the executive Commission is in itself complex, and requires a significant degree of policy entrepreneurship on the part of those within the Directorate-Generals." (Cram 1994, 201). More recently, Miriam Hartlapp, Julia Metz, and Christian Rauh (introduction in Hartlapp, Metz, and Rauh 2014) challenge the "traditional consensual-actor assumption" and the collegiality principle in the College of Commissioners as being able to capture the process that takes place before the decision-making process. Whilst they recognise that analytical accounts have portrayed the Commission holding more integration-friendly positions than the member states (Crombez 1997; Hug 2003), they argue that an investigation of the preference formation inside the Commission is needed because "no systematic explanation exists for why the EU Commission at times proposes legislative drafts that are opposed by a majority of member states, that introduce strikingly high or low standards, or that contradict extant European laws" (Hartlapp, Metz, and Rauh 2014, 2). The authors underline the importance of taking into account that the final positions presented are likely to depend on which Commissioners or Directorate-Generals (DGs) were actually involved in drafting the proposal, but that there is a lack of systematic insights into which factors drive DGs and Commissioners to form their positions, and which interests are represented by the DGs. For instance, in the case of the ESAs' decision-making process, this raises the following questions: why did the President of the Commission, at that specific point in time in November 2008, decide to set up the High Level Expert Group? What was the role of the Directorate-General

for Internal Market and Service (DG Markt) whose Commissioner was a reluctant reformer? And how did different units³ inside the Commission perceive the need for taking action on financial market supervision in the wake of the Global Financial Crisis? Thus, there is a need for an empirical investigation of the early phase of the EU decision-making process to analyse the logics of action inside the European Commission.

These two *prima facie* puzzles suggest the need to go beyond theoretical approaches that assume instrumental and power-maximization motivations for action; to better understand this instance of Commission decision-making, there is a need to explore in more depth the approach that derives from New Institutionalism in organizational analysis (NI). This entails investigating the possibility that action may derive from a concern to secure legitimacy and be driven by what is considered appropriate and expected behaviour inside the Commission. Given the relative neglect of these approaches in relation to IOs' responses to crises, this will be foregrounded in the analysis; but empirically, I investigate the relative strength of each of the theoretical approaches in understanding the motivations for action inside the Commission. As a result, the research design supports an exploration of the existence of power-maximization, instrumental and legitimacy concerns in the decision-making process that led to the proposals to create the ESAs.

2. Research question

I propose to investigate the different motivations for action in the specific case of the European Commission's decision to propose the creation of three European Supervisory Authorities in financial activities (ESAs) in 2008-2009. The project is a contribution to understanding motivations for action inside the Commission drawing from an empirical investigation of the ESA case. It brings an in-depth case study to the literature on Commission behaviour by answering the following question: *what*

³ By "units", I refer to the services inside the Commission, i.e. the different DGs and the General-Secretariat, and the College of Commissioners.

considerations guided the European Commission's decision-making process leading to the proposal to create the three European Supervisory Authorities (ESAs) on financial activities? And what does this analysis of decision-making imply about the strength and plausibility of theories of Commission action?

As previously outlined, most accounts of this reform proposal would understand decisions as being driven by either problem-solving or power-maximization motivations for action. Decision-making that aims at problem-solving is driven by considerations of finding the best possible solution to a problem, albeit taking into account possible political, financial or institutional constraints. Power-maximization implies actions that are driven by motivations to gain power, maximize control or expand an organization's mandate. Both these approaches to organizational motivations for action in decision-making assume consequentialism: action is driven by a calculation of expected results. The thesis adds a third conception of motivations for action that is driven by the organisation's understanding of how best to sustain legitimacy. Action driven by legitimacy concerns is strongly influenced by organisational beliefs about its goals and by mirroring expectations in its environment; and behaviour derives from acting according to a logic of appropriateness (March and Olsen 1989).

By motivations for actions, I refer to intentions and considerations, both subjective (beliefs) and intersubjective (norms), that inform actions (Brunsson 1985). And by actions more specifically, I refer to the various operations involved in the decision-making and policy-making process, both in content (substance and ideas) and the interactive process of decision-making (practices). The analysis is therefore concerned with the sorts of beliefs and considerations that guide decision-making and action. To understand what logics of action motivated the Commission's behaviour, I will explore how the actors involved made sense of or perceived the political pressures or opportunities in the organization's environment, and what sort of responses they considered best addressed these problems and opportunities. An investigation of how the deliberations inside the European Commission guide its action will generate some understanding of the complexity of the decision-making process.

The approach to organizational behaviour that is grounded in NI allows for a conceptualisation of organizational behaviour that is driven by other considerations than instrumental concerns about fulfilling a mandate and performance enhancement, or a concern with power-maximization, to increase policy influence and resources. NI approaches do not exclude the possibility that actors are motivated by other concerns than legitimacy concerns (Olsen and March 2004). But, theoretically, NI is an approach that makes legitimacy concerns a central feature driving organizational action (DiMaggio and Powell 1991). In instrumental approaches, legitimacy derives from output driven concerns (Barnett and Finnemore 2004; Trondal 2011) and in power-maximization approaches to organizational behaviour, securing legitimacy is more a tactical discursive or signalling device to increase power (Jabko 2006). Adopting an NI approach allows for studying how organizations perceive expectations and pressures in their environment and act accordingly. As such, this theoretical framework supports an empirical investigation of the different possible motivations that guide organizational action – instrumental, power-maximization and legitimacy concerns – starting from inside the Commission. In doing so, this research project moves outside of the debate around which actors drive integration in the European integration literature, and more generally, outside of the debate on measuring the extent of IOs' influence in decision-making.

The empirical investigation focuses on motivations for action in decision-making that took place prior to the publication of the Commission's proposals for reform, between the moment when the Commission decided to set up the High Level Expert Group in autumn 2008, until late September 2009, when it published the legislative proposals to create three European Supervisory Authorities on Financial Activities (ESAs). Drawing on data that includes documents and 35 semi-structured interviews with Commission officials, Brussels-based decision-makers and experts, I investigate the existence of power-maximization, instrumental and legitimacy concerns in this decision-making process.

3. Chapter outline

Chapter One engages with predominant theoretical and analytical approaches to organizational motivations for action inside IOs before presenting an alternative approach. I review the more or less explicit assumptions about how predominant theoretical and analytical approaches conceptualise 1) international organisations, 2) organizational preferences, and 3) the relationship between the organization and other actors in the organizational environment. The purpose is to investigate whether these approaches can support a theoretical and analytical investigation of different motivations for action inside the organization, be it power-maximization motivations, instrumental motivations or other drivers of organizational action that are more about signalling and conforming to expected behaviour. Following this review, the Chapter then presents an alternative conceptualisation of action that is embedded in the literature in sociological approaches to New Institutionalism in organizational analysis (NI) (DiMaggio and Powell 1991). It stipulates that action aims at securing legitimacy in the organizational environment and is rules-driven, following a logic of appropriateness, by which actors associate certain actions with certain situations by rules of appropriateness (March and Olsen 1984). This theoretical approach does not preclude the existence of other motivations underpinning organizational behaviour (March and Olsen 1998). It provides a theoretical framework for studying how perceptions of expectations about organizational action in the environment underpin organizational action. It enables the investigation the role of socially constructed roles and identities and the effects of environmental complexity and diversity on organizational action.

Chapter Two provides the link between the theoretical approach I presented in the previous chapter and the case I investigate in the empirical analysis. It presents the different characteristics and functions of the Commission within the theoretical framework of a sociological approach to organizational analysis in New Institutionalism (NI). I contend that the complexity and diversity of the Commission's environment and the Commission's fragile basis for legitimation make it particularly prone to acting according to survival and legitimacy concerns. Due to the diversity of the functions it carries out, it has to deal with different and even conflicting expectations from its environment, making it particularly vulnerable to external

challenges and pressures. This analysis sets the scene for the subsequent empirical chapters, which analyse the motivations underpinning the Commission's decision-making in the post Global Financial Crisis context and the specific ESA reforms.

Chapter Three is a review of the methodological approach, methods and data. After briefly presenting the research approach and how the methodology adopted supports answering the research question, the chapter provides a presentation of the case study – the decision-making process that led to the Commission's proposals to create the ESAs – and a detailed account of the way I proceeded in gathering and analysing the data.

Chapters Four, Five and Six present the empirical analysis. They focus on different aspects of the decision-making process between autumn 2008, when the Commission took the decision to set up the High Level Expert Group, until late September 2009, when it published the legislative proposals.

Chapter Four examines the moment when the Commission took the decision to set up the High Level Expert Group in the autumn of 2008. It investigates the process by which the idea came to be on the Commission's agenda, who was involved in taking the decision, and the manner in which the Commission announced the decision. The chapter also investigates the type of process it decided to put in place: the High Level Expert Group. Part of the analysis stretches back before the autumn 2008 in order to investigate changes and continuities in the Commission's position on reforming financial market supervision.

Chapter Five focuses on the period of time starting with the publication of the High Level Expert Group Report (or de Larosière Report) on the 25th of February 2009 until the publication of the proposals for regulation creating the three European Supervisory Authorities (ESAs) on the 23rd of September 2009 (henceforth legislative proposals)⁴. The chapter centres on the drafting of the content of the legislative proposals, and how and what the Commission selected from the High Level Expert Group Report. The chapter deals with the internal work in the Commission, how it used the High Level

⁴ The proposals for regulation also included the regulation to create the European Systemic Risk Board (ESRB) for the coordination of macro-prudential supervision.

Expert Group Report and its recommendations, investigates who was involved internally as well as how the Commission organized the work.

Chapter Seven, the last of the three empirical chapters, deals mainly with the stage of in the decision-making process that runs from the publication of the High Level Expert Group Report (25th of February 2009) to when the European Council agreed a mandate to reform the institutional architecture for supervision in the EU in June 2009. Part of the analysis stretches back into the autumn of 2008 and part will go as far as the publication of the legislative proposals at the end of September 2009. But the bulk of the analysis focuses on how the Commission communicated on the reforms once the High Level Expert Group Report was published, to investigate what the Commission deemed important to convey in its messaging about the reforms. Whereas Chapter Six focuses principally on how the Commission worked internally on the proposals, chapter Seven focuses on how it disseminated information, talked about the reforms, and interacted with audiences outside of the Commission.

Chapter Seven presents the conclusions; it summarises the findings from the empirical chapters and then discusses how these findings relate back to the theoretical approach adopted for investigating motivations for action inside the Commission, with broader insights for IOs and for generalizability of the contributions in relation to other policy areas.

Chapter 1 Theoretical and analytical approaches to organizational motivations for action

Chapter outline

The decision to create a European System of Financial Supervision (ESFS) in 2009-2010, of which the creation of three European Supervisory Authorities (ESAs) was a central institutional proposal, generated a lot of scholarly research. As such, a broad presentation of the literature produced on the decision to create the ESAs provides a good entry point for this chapter. In the first section of the chapter, I investigate how far these studies engaged with the Commission's actions in the decision-making process, and tease out the assumptions they make about decision-making and motivations for action. In this way, I identify a number of questions that call for a more systematic review of how conceptual and theoretical scholarship can support an investigation of the Commission's motivations for action in this decision-making process.

In the second section of the chapter, I look into different theoretical and analytical approaches in International Relations, European integration and management studies that could be used to investigate the Commission's motivations for action. I review the more or less explicit assumptions about how these theoretical and analytical approaches conceptualise 1) international organizations, 2) organizational preferences, and 3) the relationship between the organization and other actors in the organizational environment. The purpose is to investigate whether these approaches can support a theoretical and empirical investigation of different motivations for action inside the Commission, be it power-maximization motivations, instrumental motivations or other drivers of organizational action that are more about signalling and conforming to expected behaviour.

A third and last section presents an alternative conceptualisation of action that is embedded in the literature in sociological approaches to New Institutionalism in

organizational analysis (NI) (DiMaggio and Powell 1991). It stipulates that action aims at securing legitimacy in the organizational environment and is rules-driven, following a logic of appropriateness, by which actors associate certain actions with certain situations by rules of appropriateness (March and Olsen 1984). This theoretical approach does not preclude the existence of other motivations underpinning organizational behaviour (March and Olsen 1998), exploring the effects of environmental complexity and diversity on organizational action according to a logic of appropriateness enables the investigation the role of socially constructed roles and identities. In doing so, it moves outside of the debate on measuring the extent of IOs' influence in decision-making and outside of the debate around which actors drive integration in European integration literature, to investigate the mechanisms by which organizations perceive expectations in their environment and act accordingly. It provides a theoretical framework for studying how perceptions of expectations about organizational action in the environment underpin organizational action.

1.1 Literature covering the ESA reforms

This section investigates existing studies on the specific ESA reforms. It considers whether and how these studies engaged with the Commission's actions in the decision-making process, and assesses the different approaches adopted to analyse and explain the reforms. In doing so, it evaluates the assumptions these studies make about decision-making and motivations for action: rational choice approaches grounded in liberal intergovernmentalism tended to focus on member states and only implicitly assume that the Commission acted according to power-maximization concerns; though the problem-solving approaches to explaining the ESA reforms took into account the Commission's role, they tended to focus on the crisis as a trigger for the reforms and under-investigated preferences in the decision-making process.

1.1.1 A focus on member state preferences dominated by rational choice approaches

A large part of the literature on the decision to create the ESAs focuses on the preferences of member states in the decision-making process. The focus on member

states' preferences in decision-making to do with financial supervision governance stems from the fact that historically, there has been a lot of resistance and difficulty in reaching agreements on closer cooperation between supervisory authorities, both amongst national politicians and supervisors. This resulted in weak financial market integration up until the late 1990s compared to other areas of the internal market (Quaglia 2007) and a fragmented governance framework of supervision in the EU (Kudrna 2016). Scholars have given various institutional and political explanations for this lack of integration. Banking and financial market structures vary greatly from one country to another; and there are large differences in the approaches and institutional set-ups for supervision in the different countries of the EU that reflect the varieties of capitalism across the countries (Story and Walter 1997). Furthermore, "because national banking systems are fundamental to macroeconomic policy, their supervision is a jealously guarded prerogative of national regulators" (C. R. Schenk 2014, 1130) who tend to be very reticent to transfer any supervisory powers to the European or international levels. Politicians are reluctant not only because of the macroeconomic implications for their national economies, but also because of the blurred lines between supervision and fiscal policy, in particular when it comes to bail-outs of cross-border banks. Because of this historical resistance of member states to integrate supervision at EU level, much of the scholarship attributes changes that occurred post Global Financial Crisis to a shift in interests and behaviour amongst member states because of the crisis. And any variation in the degree of change (understood as a transfer of powers to the transnational level) is examined from the perspective of the member states' preferences.

Most studies adopted a rational choice approach to delegation to analyse the role and preferences of member states, in particular of the states with large financial sectors, in designing – and watering down – the response to the shortfalls in financial market supervision in 2009 (Buckley and Howarth 2010; Hennessy 2014; Begg 2009; Quaglia 2013; Teixeira 2011). In the most detailed piece of research on member state preferences, David Howarth and James Buckley (2010) focused on the largest three economies and financial sectors (Germany, France and the UK). They argue that integration considerations were secondary to material economic interests at national

level. They draw on interest-group centred approaches and a Varieties of Capitalism framework which stipulates that the underlying determinant of member states' preferences is the composition of their market economy to explain why the reforms in 2008 and 2009 were not as widespread and deep as could have been expected in view of the magnitude of the crisis. Using a Principal-Agent framework, Alexandra Hennessey (2014) also investigated how the material interests of member states underpinned preferences to keep control at national level in order to explain why the Commission's proposals for the ESFS reforms were watered down in the European political and policy process. She argued that member states' economic and political power, perceptions of uncertainty, as well as the interests of the domestic banking industry, shaped EU agreements in the area of financial supervision (Hennessey 2014, 152). These works adopt rational choice approaches and focus on how member states' material interests shaped their preferences and therefore the outcome of the decision to reform. The Commission's motivations were not investigated. The Varieties of Capitalism literature explains outcome and assumes that only member states' preferences are relevant. The Principal-Agent approach assumes that the Commission exploited the window to push for further integration and subsequently increased its influence. In turn this triggered a push-back from principals (the member states) which explains why the proposals were watered down (Hennessey, 2010). The implicit assumption is that the Commission, as initiator of proposals for legislation, is invariably concerned with furthering integration in order to increase its influence vis-à-vis member states or to gain more resources (budget and staff). This would assume power-maximization motivations for action, though the Commission was not the focus of these studies.

Though a large number of studies adopted a rational choice approach to the study of member state preference, publications by Lucia Quaglia (2010) and Julia Black (2012a) focus more on how ideas underpinned the shift in member state preferences. They both find that the ideational shift away from light-touch regulation transformed member state preferences. Black broadly focused on how the dominant paradigms for regulation and supervision before the Global Financial Crisis favoured principle-based regulation (Black 2012a). Quaglia focused specifically on the EU and argues that the crisis triggered a shift from the dominant consensus for a market-making approach to

governing financial services in the EU (light-touch regulation and principles of self-regulation), to a coalition of member states more in favour of a market-shaping approach to financial regulation and supervision (Quaglia 2010). From her perspective, the exogenous shock of the Global Financial Crisis triggered a shift in the preferences of member states and led to a different set of motivations in the decision-making process in favour of a transfer of powers to the transnational level. Though from a theoretical perspective the ideational approach could provide some scope for investigating how the Commission fared in this coalition of actors in favour of market-shaping, the Commission's role was not conceptualised or empirically investigated. The focus remained on analysing the variation of member state preferences using an ideational approach to explain the outcome of the decision-making process. The investigation of the agenda-setting role or specific motivations guiding the Commission's action was lacking.

Finally, one study presents a different understanding of member states' motivations for action. Though not directly on the ESAs, Domenico Lombardi and Manuela Moschella (2017) showed how symbolic politics drove the creation of the European Systemic Risk Board (ESRB), the macro-prudential new body of ESFS reforms. They argue that because of the magnitude of the crisis and the pressure from public opinion and international partners, politicians needed to signal that they were taking action. From this perspective, motivations for action are not driven by a shift in preferences of the member states, whether as a consequences of material economic interests or ideational change. Motivations are more symbolic and action is aimed at signalling expected behaviour – visible change and reforms – in the context of issue salience due to the crisis. This study provides a different understanding for the member states' motivations for action but still did not investigate the Commission's motivations. In particular, it leaves out the question of why the Commission and the High Level Expert Group also engaged in this signalling behaviour in the first place, and what motivated the Commission to publish the reform proposals to create the ESAs.

The above mentioned studies draw only on the preferences of member states as variables in the ESA reforms. Largely drawing from rational choice approaches, they

aimed to *explain* variation in the outcome of the reforms and in particular the degree to which member states preferences explain why they transfer powers to the supranational level. None engage with the question of why the Commission chose to call upon the High Level Expert Group at that specific point in time, and why it put forward the proposal for reforms in the first place.

1.1.2 Evaluation of policy content: implications for decision-making

A second strand of the studies that cover the ESA reforms focused on evaluating the content of the reforms in relation to financial market governance, and on assessing whether the institutional solution of three authorities addresses the supervisory problems highlighted by the crisis (I label this policy-content literature). They tended to provide a diagnosis of the problems in European governance of supervision and to subsequently assess the proposals for correcting these problems. The content of supervision reforms was assessed in relation to how they would impact financial market integration (Wymeersch 2012; 2011; Furlò and Di Noia 2012; Ferran 2012; Black 2012a; Merlin 2011), and/or whether they were the right policy response to failures (Begg 2009; Quaglia 2010; Kudrna 2016; Kern 2011; Moloney 2011; Kern 2011; Teixeira 2011). For all authors, the crisis highlighted two sets of deficiencies with European supervisory governance. The first set of deficiencies existed before the Global Financial Crisis. They are related to European monetary integration on the one hand, and to the absence of a Single Rule Book to structure the growth in cross-border financial intermediation in the EU and internationally in the late 1990s and 2000s on the other hand (Schoenmaker and Oosterloo 2008; 2005). The mismatch between monetary integration and lack of integration of supervision in the EU is traced back to the initial design of the European Monetary Union (EMU) (Smets 2013). As a consequence, at the onset of the Global Financial Crisis, the EU had a fragmented supervision of cross-border banks (Kudrna 2012), was slow in responding to crises and had no crisis prevention mechanisms (Merlin 2011), and struggled with problems of regulatory arbitrage because of the lack of appropriate exchange of information between supervisory authorities (Bini Smaghi 2009b). The second set of problems covered in the literature emerged with the Global Financial Crisis: the new focus on

macro-prudential supervision and the subsequent need to focus on supervising the system as a whole, not only micro-prudential supervision at the level of individual firms (Lannoo 2008). The crisis highlighted that the failure of one financial institution can trigger a system failure. This challenged the principles that underpinned supervision policy before the crisis. The High Level Expert Group Report addressed both problems – those that are specific to the historical trajectory of integration in matters of supervision that preceded the crisis, and the issue of macro-prudential supervision. All studies related to policy-content took for granted that the High Level Expert Group Report was the cornerstone for the contents of the reforms proposed by the Commission. This literature assumed an instrumental approach. The assumption is that actors sought to respond to the shortfalls highlighted by the crisis given the constraints. Motivations in the decision-making were aimed at choosing a policy according to a problem-solving logic of action: identifying the best possible solution given the diagnosis of problems and legal and political constraints. The analysis of motivations for action is theoretically underdeveloped as the focus was on the validity and feasibility of the policy solutions generated in the decision-making process.

Another set of studies focused more specifically on evaluating the choice of institutional form of three authorities, rather than the rules and regulations related to financial supervision. Arjen Boin, Madalina Busuioc, and Martijn Groenleer (2014) argued that the reforms that created the ESAs were part of the expansion of the Commission and the EU as a crisis manager through agencification. The proliferation of agencies at European level has been widely studied (see Busuioc, Groenleer, and Trondal 2012 for an overview). Studies on agencification as a signifier of the EU as a crisis manager assume that the solution of more agencies is the logical consequence of a transboundary crisis: transboundary crises require transboundary crises management. The assumption is that action is driven by efficiency goals. David Coen and Mark Thatcher's network governance framework (2008) conceptualises the proliferation of agencies at EU level as part of a horizontal network of experts and wider informed communities that are best positioned to diffuse potential crisis and to cope with them. The agencification literature in conjunction with the network governance of experts offer a stronger conceptualisation of the role of the Commission in the ESA reforms:

it acts to fulfil tasks that are best done at transnational level. This approach is consistent with a neofunctionalist understanding of the role and actions of the Commission: as a result of functional spill-overs highlighted by the crisis, the Commission would step in to coordinate responses to the problems and the result would be a transfer of powers to the European level.

One of the studies on agencification highlighted more obvious power-maximization concerns inside the Commission. Berthold Rittberger and Arndt Wonka (2011) took into account the strategic behaviour of the Commission, not only its concerns about efficiency and fulfilling its mandate. They observed that with the creation of the ESAs, the Commission had an opportunity to “enhance its own objectives” (Rittberger and Wonka 2011, 4) much more than for instance a solution under the aegis of the European Central Bank (ECB) would have achieved, because agencies, as an institutional form, “find themselves much closer to the Commission than to the Council and national ministries” (Rittberger and Wonka 2011, 7). Though strategic behaviour is not inconsistent with instrumental concerns in a neofunctionalist theoretical approach (see next section of this chapter), Rittberger and Wonka’s contribution highlighted how the Commission pursued an agenda to increase its influence and powers in an inter-institutional struggle for influence and resources at European level.

However, there is scope for investigating whether the preference for agencies as an institutional model may have existed before the crisis. Earlier work done by Giandomenico Majone on the motivations inside the Commission for going beyond the Meroni doctrine⁵ suggests that the motivations inside the Commission for creating agencies, and in particular inside DG Markt, could have been related to increasing the EU’s capacity to monitor and enforce the implementation of EU law in the framework of the Single Market process (Majone 2001). In this case, crisis management may not have been the principle rationale for the ESA reforms. From this perspective, it would have been relevant to investigate to what extent the solution of the agencies in the

⁵ The so-called Meroni doctrine states that EU agencies should not be given discretionary powers in cases where such powers are not provided for under the Treaty. The Meroni doctrine arose from cases C-9/56 and C-10/56 (Meroni v High Authority [1957/1958] ECR 133) and relates to the extent to which EU institutions may delegate their tasks to regulatory agencies.

specific case of the ESAs preceded the problems highlighted by the crisis. This would require investigating the process by which an existing solution was coupled to a new problem – the transboundary crisis (Kingdon 2014). This would open the possibility for exploring different motivations for action than instrumental concerns, and warrants a more systematic investigation of what motivates strategic behaviour inside the Commission. Finally, these approaches undertheorize the fact that in a context of huge uncertainty, the solution put forward might also be the result of isomorphism (i.e. copying), a logic of action that responds to concerns about developing an appropriate response rather than concerns about developing the best solution according to one's interests or values (March and Olsen 2011; Powell and DiMaggio 1991).

1.1.3 Conclusions based on the literature on the ESA reforms

I set out to investigate whether the literature that focused specifically on the decision to create the ESAs engaged with the Commission's actions in the decision-making process. Overall, the literature on the decision to create the ESAs is largely rational choice and instrumentalist, which reflects a natural bias in the study of crisis (Posner 2007). The studies that do engage with the motivations of actors in the decision-making process focused their analysis on member state preferences. This may stem from the fact that most rational choice approaches would assume that the Commission, and more broadly supranational and international organizations, invariably seek to secure more influence and power. Therefore, in a context in which a transfer of powers to the supranational level appeared self-evident, focusing on the Commission's motivations may have seemed redundant.

Though not empirically investigated in the literature in the ESA reforms, rational choice approaches do assume that formal powers and structures allow for IOs to exploit opportunities to expand its powers once put in place. These assume power-maximization concerns and allow for strategic behaviour. In the one study that does engage with the Commission's motivations, Wonka and Rittberger (2010) view the Commission as seeking efficient solutions to the transboundary crisis and as exploiting the window of opportunity to push for solutions that increased its influence. This,

however, assumes a rather crude power-maximising motivation and warrants a more detailed and nuanced investigation of the Commission's strategic behaviour that would also take into account instrumental concerns. Furthermore, rational choice approaches do not investigate the organization's preference, which are treated as fixed. These approaches to delegation can explain the watering down of the proposal, but cannot explain the apparent internalised self-restraint in the Commission's initial proposal or how the Commission engages in strategic work. This calls for an investigation of how the Commission interacts with relevant actors in the decision-making process and how it makes sense of the situation of crisis.

The literature that focuses on the policy-content and on the Commission as a transboundary crises manager viewed the crisis as confirming and/or revealing an urgent need for increased supranational coordination on matters of supervision. These studies build on the premise that the Global Financial Crisis triggered the search and need for solutions to the transboundary crisis and for efficient coordination at transnational level. Member states change their perception of the degree of coordination and integration needed at European level and rely on the agent to solve the coordination problem. The Commission would then step into action at that specific point in time to find the best possible solution for palliating the shortfalls of failed coordination in the area of financial market supervision. Motivations in the decision-making process are instrumental, and assumptions about the Commission's behaviour are consequentialist: it puts forward the best solution given the epistemic constraints (causes of the crisis remain complex and are still being analysed) and political constraints (member states preferences). However, these approaches fail to explain why the Commission did not propose a more ambitious reform for supervision given the magnitude of the crisis and the fact that experts and policy-makers had been pointing out that the EU needed a much stronger integrated governance set-up even before the onset of the Global Financial Crisis.

Rational choice and instrumental approaches tend to schematise the relationship between the Commission and other actors in the decision-making process; they have little to say about how the Commission assesses and manages the possibility of

different or conflicting preferences amongst member states and other relevant actors when it initially prepared the proposals. More broadly, these approaches tend to gloss over the challenges of taking action in a context of large uncertainty. They lack an analysis of the processes by which actors make sense of the situation of crisis, i.e. the cognitive basis for action. Moreover, the possibility that other motivations for action may have played out is under-investigated. These would include action that is driven by the need to signal action (symbolic politics), or to conform to expected behaviour or copying rather than problem solving motivations or action driven by the realisation of self-interests. And finally, the focus on formal powers and formal structures, and the implicit assumption that preferences are geared towards further integration, either for efficiency or for power-maximization reasons, also tends to gloss over the potential conflicts that may exist inside the organization. It makes the agenda-setting phase of the decision-making process inside the Commission appear straightforward. But scholarship on the Commission has shown that the process by which issues come onto the agenda is complex and that there is often contestation between the different DGs (Cram 1994, 201; Hartlapp et al 2014; Ban 2013). Furthermore, scholars have pointed out the importance of taking into account that the final positions presented are likely to depend on which Commissioners or DGs were actually involved in drafting the proposal (Hartlapp, Metz, and Rauh 2014). This calls for an investigation of the internal dynamics of the Commission to better understand the motivations that underpinned the proposals to create the ESAs. There is a case for investigating the early phase decision-making process that precedes the publication of the proposals for reform. For instance, given the considerable turmoil on the financial markets and in the banking sector and the urgency to act in September and October 2008 (see Chapter Five), it is relevant to investigate why the Commission, at that specific point in time, decided to establish a High Level Expert Group on reforming supervision.

In the next section, I further expand on the theoretical assumptions in mainstream approaches to European integration about the Commission's motivations for action that have been briefly referred to in the last section. I also look into different theoretical and analytical approaches in International Relations scholarship and management

studies that could be used to investigate the Commission's motivations for action. The purpose is to investigate whether these approaches can support a theoretical and analytical investigation of different motivations for action inside the organization, be it power-maximization motivations, instrumental motivations, or other drivers of organizational action that are more about signalling and conforming to expected behaviour.

1.2 Exploring theoretical approaches and assumptions about organizational action in existing literature

1.2.1 Instrumental and rational choice foundations for organizational action in European Studies and political economy literature.

In the following section, I look at a broad range of approaches that are relevant for the study of organizational motivations. I suggested in the last section that literature explaining the ESA reforms has tended to draw on rational choice assumptions. In this section, I take a closer look at some of the broader theoretical assumptions underpinning such theories of organizations. I develop arguments introduced above about the deficiencies of such theories as an approach to explaining the case.

1.2.1.1 IR and prominent EU integration theories: how IO behaviour is theorised/conceptualised

A large component of International Relations literature views IOs' actions as driven by what they are formally designed or mandated to do (henceforth functionalist). Theoretical approaches assume that IOs act to serve the interests of their designers (rational choice institutionalist) or to enable the emergence of a more efficient and integrated system of transnational governance. Functionalist assumptions have been particularly prevalent in neoliberal institutionalism and the scholarship looking into transnational economic governance and the process by which powers are increased at transnational level in IOs (Keohane 1989; Nye 2011).

These approaches conceive IOs as being actors in a process of transformation in the economy, from national economies to internationally connected economies, and towards a market-driven economic integration: “institutional change is associated with a significant renegotiation of the politically regulated social market economy of the post-war period. [...] the current transformation of modern capitalism is making it more market-driven and market accommodating as it releases ever more economic transactions from public-political control and turns them over to private contracts.” (Thelen and Streeck 1995, 5). IOs are the products of this renegotiation between member states in a macro-movement towards more transnational and international economic and financial integration and interconnection. In this literature, IOs’ function is to reduce complexity, compensate for information asymmetries and facilitate coordination in the broader context of the transformation of market economies. IOs reduce the problems of insufficient information and transaction costs and thus will help stabilise economic relations (Keohane 1998). Normative approaches in International Political Economy conceptualise IO behaviour as one of the intervening variables in the governance of a well-functioning market economy (Ikenberry 2001; 2018). IOs’ room for manoeuvre is defined by their mandate, formal structures and stated goals, and they act to ensure coordination in increasingly interdependent globalized economies (Nye 2011). More recently, the emergence of an even more complex and integrated financial market governance framework post Global Financial Crisis and post Eurozone debt crisis in the EU has increased the focus on the regulatory and supervisory role of IOs. Given that the Global Financial Crisis was the single most catastrophic instance of market failure in recent history, literature that focuses on the formal powers and goals of IOs in financial market governance has grown since the Global Financial Crisis (Helleiner, Pagliari, and Zimmermann 2010). At the EU level, scholarship that focuses on the regulatory role of European organizations developed in conjunction with the Single Market process that led to the growth of administrative regulation, not only in areas of financial market governance. Scholarship viewed the role of EU level organizations as compensating and working to solve a mismatch between existing institutional capacities and the growing complexity of policy problems (Majone 1994; Eberlein and Grande 2005), or the need to rationalise regulatory burdens and avoid inconsistent regulations across countries (Mügge 2006).

The main purpose of the organization in a regulatory regime is “to improve the efficiency of the economy by correcting specific forms of market failure such as monopoly, imperfect information, and negative externalities.” (Majone 1994, 79). And in doing so, the organization is able to exploit its informational advantage and opportunities to expand its competences (Jabko 2006).

As such, the focus on the formal powers and goals of IOs as determinant of their action resonates with predominant theoretical approaches to European integration, whose origins are based in theories of economic cooperation. In intergovernmental approaches, European supranational institutions are the reflection of the interests of their designers but seek to expand their mandates and competences (Bickerton, Hodson, and Puetter 2015; Moravcsik 1995); in neofunctionalism, European supranational institutions work to foster an ever closer political and economic union (Sandholtz and Zysman 1989; Sandholtz and Stone Sweet 1998). Functionalist accounts of the role of IOs prevail in the Liberal Intergovernmental (LI) (Moravcsik 1995) and rational choice institutionalist (Pollack 2012) approaches to European integration. LI posits that “European integration resulted from a series of rational choices made by national leaders who consistently pursued economic interests ...that evolved slowly in response to structural incentives in the global economy” (Moravcsik, 1998, 3). From this perspective, LI shares the same theoretical premise as Neoliberal institutionalists and regimes theorists in the way they treat IOs. They are under-conceptualised and are mechanisms through which others (usually states or organized interests) act. More broadly, because formal structures and powers are designed and delegated to IOs by member states, much of the literature assumes that IO preferences are a reflection of the interests and values of their designers, or that their actions are constrained by the choices of the member states. Analysing member state preferences and the formal structure of organizations (mandate and stated goals) would be enough to explain organizational behaviour in decision-making.

A functionalist understanding of the role of IOs in international economic and financial market governance has implications for motivations for action. Literature that considers the role of IOs as functionalist puts the emphasis on the formal structures and formal powers of IOs as determinant of their actions. These approaches view

actors' motivations as determined by material considerations (utility maximization) and/or and goals of efficiency (instrumentalist). The dominant environmental characteristics driving the behaviour of organizations are competition, exchange, and consequent pressures for efficiency and cost-benefit. Nevertheless, even if theoretically the focus is on the preferences of member states in designing the structures and powers that shape organizational action, empirical evidence of 'mission creep'⁶ has led rational choice scholars, notably rational choice institutionalists, to integrate frameworks for analysis that allow for a certain degree of IO agency, notably the Principal-Agent framework for analysis (M. Pollack 2007, 2003; Nielson and Tierney 2003; Hawkins 2006; Jupille 2004). From this perspective, delegation always allows for IO discretion because IOs can exploit the informational advantages they may have, and strategically use their expertise to pursue their own interests. The Principal-Agent framework conceptualises rational choice approaches to IOs' motivations for action. IOs have their own preferences that diverge from that of member states and they may act to expand their powers and influence despite member state preferences. Action is driven by interests and the main purpose of the analysis is to establish which actors' preferences have the most influence in shaping outcomes in a bid to explain outcomes. Principal-Agent frameworks have been applied at international and European level. In the next section, I unpick what the Principal-Agent framework assumes about the sources of IO preferences, how it conceptualizes the relationship between the IO and its environment, and the assumptions about what motivates action.

1.2.1.2 Principal-Agent approaches

From an analytical perspective, Principal-Agent frameworks (PA) are very commonly used to conceptualise the relationship between organizations and member states in the process of delegation of powers. PA operationalises delegation according to a rational logic of action grounded in interests, which it presents as consciously and explicitly designed. Member states act as principals that delegate powers and prerogatives to agents, in order to deal with issues of coordination and information deficit, and to

⁶ Mission creep is the term used that describes the continuous expansion of IOs' competences into new areas against the wishes of their member states.

reduce complexity. They delegate tasks to agents because they believe the agent has particular knowledge or capabilities that will help the principals achieve their goals (Coen and Thatcher 2008; M. Pollack 2003). Through delegation to an agent, the principal(s) hope to manage externalities through the centralisation of expertise, facilitate collective decision-making, resolve disputes, enhance credibility, and/or lock in commitments. The principal(s) and the agent bargain over the extent of agent autonomy (Hawkins and Jacoby 2006; Hawkins et al. 2006; Howarth and Sadeh 2010).

In PA approaches, IOs' preferences, and consequentially actions, frequently deviate from the original wishes and design of the member states. PA approaches define autonomy as "the range of potential independent action available to an agent after the principal has established mechanisms of control. Autonomy is the range of manoeuvre available to agents after the principal has selected screening, monitoring, and sanctioning mechanisms intended to constrain their behaviour" (Hawkins 2006, 8). Thus IO actions and preferences can only be captured in the context of the relationship that has been established with the principals. Mark Pollack, in exploring the question "are supranational organizations the engines of integration" (Pollack 2003), uses the PA framework to analyse whether IOs exert an independent causal influence on the process of European integration. Pollack argues that "despite their internal complexity and diversity, the EU's supranational agents generally behave like unitary actors with a preference for further integration, and the discretion of these agents to realize their preferences varies systematically with the institutional control mechanisms established by member governments in the initial acts of delegation" (Pollack 2003, 16). Though this study highlights strategic behaviour to expand the realm of European competences, there is no investigation of what shapes the supranational organizations' preferences towards more integration. The process by which IO's interests are constructed is not investigated in PA framework, nor are path dependent processes taken into account.

EU rational choice scholars have since downplayed the unitary preference of European supranational organizations towards integration and argue that they are not 'hardwired' to pursue further integration (Bickerton, Hodson, and Puetter 2015;

Hodson 2011). Christopher Bickerton, Dermot Hodson and Uwe Puetter (2015) point out that the Commission, instead of pursuing direct empowerment of the traditional supranational organizations, chooses not to challenge the member states preference to establish a network of bodies at EU level, such as agencies. They argue that this challenges the idea that the Commission is systematically pro-integration. However, the authors did not investigate this claim empirically. Indeed, rational choice approaches tend to black box the internal workings of organizations, treating them as unitary actors with established preference that are grounded in the pursuit of more influence and resources. The logic of action is consequentialist: delegation occurs in order to cater for shortfalls in coordination and the IO seeks to expand its powers and increase its autonomy vis a vis principals, by exploiting informational advantages and expertise. Fixed preferences exclude the analysis of how learned behaviour and path dependent processes may shape organizational preferences.

Furthermore, PA treats organizations and their environment as distinct. The conceptualisation of the relationship between the agent and the principals tends to minimize the issue of how an IO may behave with multiple principals. IOs typically have to deal with multiple principals, and with conflicting interests and expectations. Because IO preferences are not investigated, PA does not allow for theorizing how IOs deal with the diversity and potential conflicting demands from multiple principals. It does not conceptualise how organizations direct their attention to different demands. This reinforces the overly schematic relationship between IOs and their environment. Finally, it fails to allow for the possibility that agents might act according to a different logic than increasing their influence and power, and autonomy vis a vis principals. In particular, it does not allow for behaviour that is driven by a logic of appropriateness; PA doesn't allow for an analysis of behaviour that is driven by emulation⁷ or for how path dependent processes and learned behaviour may shape organizational preferences

⁷ For an interesting case, see Kathleen McNamara explored how institutional isomorphism played a role in the spread of the model of the independent central bank. The focus was on explaining logics of delegation that derive from copying – delegation from member states to their own independent central bank or indeed in the creation of the European Central Bank.

1.2.1.3 The sui generis literature in European integration studies

In contrast to rational choice institutionalists, the *sui generis* literature in European integration approaches assumes that European supranational institutions pursue action with the aim of furthering integration, but that their aims in doing so go beyond the immediate power and influence rewards to the organizations themselves. The neofunctionalist theory of European integration explicitly stipulates that European supranational organizations, notably the secretariat of the European Commission, act to further integration in the EU. In his foundational work, Ernst Haas assumed a process of functional spill-over in which the initial decision of governments to delegate policy-making powers in a certain sector, such as coal and steel, to a supranational institution inevitably creates pressure to expand the authority of that institution into neighbouring policy areas such as trade, competition and labour market policies. Since all sectors of the economy are interdependent, the logic of functional spill-overs would eventually bring about a general transfer of policy-making powers to the supranational institutions (Haas 1961). Supranational institutions continuously step in to provide the expertise and perform the tasks needed to ensure further integration that derives from functional spill-overs. In the process of acting in this manner, European supranational organizations strategically frame and pursue an agenda fostering the development of supranational governance (Sandholtz and Stone Sweet 1998) and of a governing elite free of national ties (E. B. Haas 1961). European bureaucrats act to facilitate and manipulate the pressures created by functional spill-overs: “regional bureaucrats seek to exploit the inevitable ‘unintended consequences’ that occur when states agree to assign some degree of supranational responsibility for accomplishing a limited task and then discover that satisfying that function has external effects upon other of their interdependent activities” (Schmitter 2005, 257). The degree to which they are successful is contingent on the leadership qualities of the individuals involved and/or the capacity of the administration to manage the window of opportunities for pushing for further integration.

These theories assume a logic of action that is oriented towards problem-solving. This entails a rational mode of decision-making in which the Commission is driven by motivations to provide a solution to problems of coordination between member states

and different actors (mediation), and to produce rules (expertise). The organisation is preoccupied with task completion and delivery (instrumental motivations) rather than maximising its power vis a vis other actors. Rational choice approaches that build on Neofunctionalism assume that the European Commission acts to further goals of integration. Preferences for integration are driven by concerns of efficiency (instrumental) rather than increasing autonomy and powers vis a vis other actors (power-maximization). Neofunctionalism has also led to the development of other approaches to how preferences are developed in European supranational institutions, notably in the constructivist and sociological literature. I come back to these examples in the next section in which I discuss alternative approaches to rational choice and instrumentalist approaches to organizational action. But at this stage, two limitations of the rational choice approaches that build on neofunctionalism are important.

First, the complexity and increase in the number of member states and views about European integration that vary across issues areas weaken the capacity of European supranational organizations for efficiency. As pointed out by Schmitter, “greater heterogeneity of interests and passions means that it will become much more difficult to respond with an expansive package-deal that will have something in it for everyone. Given such a diversity, it is much less likely that actors will recognize a common need, that experts will agree on what to do.” (Schmitter 2005, 268). Furthermore, regulators operate in a complex political environment which includes, in addition to economic interests, political executives, legislators, rival agencies, political parties, judges, the media, public-interest groups and supranational authorities (Majone 1994). This adds to the shortfalls of approaches that view actors as deciding on a course of action based on rational calculations about potential outcomes. There is a need to develop a means of theorizing how IOs make sense of problems or perceive different actors’ interests.

Secondly, neofunctionalism was first developed by Haas for the specific context of European integration (Haas 1961). Thus, the assumption is that the secretariats of IOs at European level have characteristics that are unique to the context of European integration. These derive from the political agreement amongst member states to work towards more integration and the specific powers of European supranational institutions under the European Treaties. Therefore, the Commission’s action, as an

organization, can only be conceptualised within the specific framework of the European decision-making context and is contingent on the powers that it has been attributed under the Treaties (Sandholtz and Stone Sweet 1998, 23). This focus on formal powers and the unique setting of the EU risks reductionism. For instance, neofunctionalist approaches focus on the leadership qualities of individuals in supranational secretariats, the unique quality of impartiality in mediation and policy expertise. These are all features that are common to other IOs. Understanding how these features shape IO behaviour beyond explaining integration could provide a richer insight into the actions of the Commission.

1.2.1.4 Strategic action: disentangling the recent literature on supranational entrepreneurship

Before concluding on the rational choice approaches to organizational behaviour, this last section covers in more detail how instrumental and power-maximization approaches define strategic behaviour. As previously covered, PA approaches in rational choice institutionalism allow for strategic behaviour to increase influence and resources. From this perspective, at EU level, strategic behaviour does not necessarily mean that the Commission always acts to further integration. Alternatively, rational choice approaches in Neofunctionalism assume that strategic behaviour to expand powers and competences are linked to a commitment to European integration: the Commission acts to expand its powers and influence because its mandate and *raison d'être* make it an actor committed to European integration. A lot of literature that aims at capturing and explaining strategic behaviour refers to the idea of “supranational entrepreneurship” in decision-making and in policy-making. Actors inside organizations exploit informational asymmetries and their expertise to increase their power over policy areas or their resources (budget and staff). Informational and ideational asymmetries create windows of opportunity that supranational entrepreneurs exploit to influence interstate negotiations. Windows of opportunity in decision-making open when IOs enjoy a comparative advantage in information or when they are needed to solve a problem of coordination or propose a solution as a result of unforeseen events, such as crises. These approaches focus on the leadership qualities of individuals in supranational secretariats, the unique quality of impartiality

of IOs in mediation and IOs' policy expertise, which gives them informational and technical knowledge advantages over the member states. Entrepreneurial behaviour of the IO can also presuppose more informal work of promoting ideas, venue shopping (choosing the audience) and framing so as to promote ones' ideas or make the most of the loopholes.

Recently, there have been a number of publications adopting rational choice approaches to European decision-making that aim to demonstrate how the European supranational institutions, and notably the Commission, engaged in strategic action post Global Financial Crisis and Eurozone debt crisis. These studies focus on the role and power of European supranational institutions in increasingly complex governance networks, and the strategic use of narratives and ideas in shaping governance networks.

Supranational strategic action and governance complexity has been studied at European level in the context of an increase in administrative capacity at European level before the Global Financial Crisis. Giandomenico Majone's work on explaining the proliferation of regulatory forms of policy in the EU and the specific role of the European Commission in driving this phenomenon highlights how the Commission made strategic use of regulation (Majone 1994). The Commission works in a wider regulatory environment that ties together multiple actors in a sequence of policy-making and implementation that segments responsibility between multiple actors at different levels of governance. The Commission has successfully attempted to maximize its influence by increasing its role as a regulator, as measured by the scope of its competences (Majone 1996b, 64). This underlines a power-maximization logic of action.

Others have examined the shifting strategic role of the Commission from regulatory entrepreneur to "policy manager" (Laffan 1997; Bauer 2006) which owes to the level of integration already achieved by the 1990s and a less benign political environment. More recently, Michael Bauer and Stefan Becker (2014) seek to expand on the Commission's managerial role. They emphasise the considerably strengthened role and multifunctional characteristics of the Commission in economic governance post Global Financial Crisis, and call for further research that assesses the changing role of the Commission in terms of its ability to use "its political room [to] manoeuvre in

supervising and steering policy implementation” (Bauer and Becker 2014, 227). Bauer and Becker’s work seeks to counter-balance the over-emphasis in scholarship that has focused on intergovernmentalism (Puetter 2012; Bickerton, Hodson, and Puetter 2015; Fabbrini 2013) and the decline of the powers of the Commission (Hodson 2013; Peterson 2012) since the Global Financial Crisis and Eurozone debt crisis. Their work highlights the limitations of “the theoretical standards of intergovernmentalism and supranationalism” when applied to an economic governance architecture that is growing more complex (Bauer and Becker 2014, 214). Most recently, the Special Issue of JCER on “supranational activism” (2017) also aims at expanding the concept of entrepreneur to better capture the complexity and diversity of European supranational institutions’ powers and roles. By introducing what the authors term the analytical concept of “supranational activism”, they explicitly seek to bridge the debate between supranationalism and intergovernmentalism, and to capture the role and powers of these organizations at European level. Supranational institutional activism is “a particularly energetic effort on the part of an entity to fulfil an expansively defined understanding of its officially prescribed powers and goals and/or an effort, explicitly or implicitly, to expand these powers and goals.” (Howarth and Roos 2017, 1008). The articles in this special issue all focus on strategic behaviour of different European supranational organizations using rational choice frameworks for analysis, including PA frameworks.

However, because these studies are concerned first and foremost with how the Commission exercises influence in decision-making and policy-making, including at the implementation stages (Bauer and Becker 2014), they do not really engage with investigating what motivations underpin the Commission’s behaviour. Their concern is about defining and demonstrating the influence of the Commission or European supranational institutions. Furthermore, though these recent publications seek to move beyond or outside of the traditional distinction between supranational entrepreneurship and intergovernmentalism in European integration theories, they are hindered in this exercise by the schematic assumptions about the relationship between European supranational organizations and other actors in their environment. These assumptions derive from the rational choice approaches to the motivations underpinning action: IOs

act to fulfil a mandate for increasing efficiency of transnational governance and/or to expand their autonomy and influence in decision-making and policy management in transnational governance. This schematic understanding of the relationship between the organization and other actors in its environment also highlights the problems rational choice literature is encountering with conceptualising increasingly complex relationships between IOs and actors in its environment. Theoretically, there is a need to situate supranational strategic action in a framework that enables a conceptualisation of the complexity of the relationship between the organization and the environment.

Another set of studies that focus on the strategic behaviour of the Commission emphasises the Commission's strategic use of narratives and ideas in a bid to further the integration project and/or increase its influence. In a comprehensive study of the Commission's power-maximization behaviour in relation to the growth of regulation, Nicolas Jabko (2006) presents how the Commission made strategic use of ideas in shaping the Single Market. He argues that the Single Market represents a peculiar mix of both liberalism and protectionism, which reflects the diverging and conflicting ideas pervading the policy community. Ideas and narratives are used strategically to increase influence; they do not shape the course of action. In a similar vein, a number of more recent studies emphasise how the Commission used narratives strategically to shape the post Global Financial Crisis and Eurozone debt crisis governance landscape. In these studies, entrepreneurial behaviour presupposes more informal work of promoting ideas, and venue shopping. Rachel Epstein and Martin Rhodes (2016) revisit a neofunctionalist explanation to the Commission's actions and motivations in shaping the Banking Union with the concept of "cultural spill-over". They argue that the Commission successfully interpreted the Eurozone debt crisis as requiring supranational solutions, and shaped the outcomes, notably the Banking Union. Ramūnas Vilpišauskas (2013) also proposes that the Commission has been ambitious in launching detailed initiatives and legislative proposals on economic governance, coupled with an "integrationist 'spill-over' discourse of 'completing the unfinished project' of establishing the Single Market and single currency" (Vilpišauskas 2013). David Howarth and Lucia Quaglia (2013) find that both the Commission and the ECB

embraced this narrative about completing the Single Market and European Monetary Union in pushing for the Banking Union.

However, in these studies, there is little investigation of how and why certain preferences are developed and the processes by which officials within the Commission develop or endorse these narratives. The assumption is that narratives and ideas are used strategically to pursue preferences towards more integration or to increase influence and power. Less explored is the internal processes of interpretation of a situation inside the Commission, or how ideas may become embedded in an organizational culture through learning or socialisation processes. More broadly, what rational choice approaches to strategic behaviour highlight is the difficulties that this scholarship is having in empirically studying how IOs deal with increasingly complex and diverse tasks and interests in their environment. Absent is a conceptualisation of how IOs direct their attention to issues and how they make sense of the tasks at hand. This requires a methodological approach that allows for investigating IOs from the inside to understand what they do internally.

In rational choice approaches in IR and European integration theories, the focus is on the formal structure, formal goals and mandates of IOs. This literature assumes that IO behaviour is driven by rational calculations to push for further integration (EU specific) or to increase organizational autonomy. Preferences are shaped by rational calculations of efficiency goals (instrumental), power-maximization goals, or a combination of both. Rational choice approaches assume that the aim is to maximize power and increase autonomy from member states in a zero sum game. Instrumental approaches view IO's preferences as defined by goals of efficiency and mandate delivery. This raises the question of why certain options and not others are on the table in the first place, i.e. how IOs direct their attention to issues or opportunities. And more broadly, it leaves under investigated where interests and ideas come from, and how these are made intelligible/explicitly articulated inside IOs. Furthermore, because this literature focuses on explaining outcomes driven by material considerations and formal constraints, it ignores the possibility that rational calculations of costs and

benefits are not the only basis for decision-making. Other motivations for organizational action are left unexplored, such as motivations driven by conforming to expectations about organizational behaviour. Finally, much of this literature aims to assess the degree to which international organizations are influential in decision-making. Because of this focus on influence in decision-making and the assumption that actions are driven by rational calculations, these approaches struggle with conceptualising how the Commission, and incidentally IOs more generally, deal with complex problems, and diverse or even conflicting interests. To conclude, these approaches offer an overly narrow basis for understanding the Commission's preferences, under-investigate internal decision-making, and how it settles on goals for action. More broadly, these approaches offer a rather schematic conceptualisation of the relationship between the international organization and other actors, notably member states, in the decision-making process.

1.2.2 Alternative approaches to rational choice

A number of studies provide insights into alternatives to rational choice accounts of IO behaviour. These studies adopt variations of constructivism to investigate preference formation inside IOs and conceptualise intra-organizational contestation. The focus shifts from formal powers to the role of ideas and narratives in shaping preferences and action, and on how organizations might respond to their environments for other purposes than mandate expansion.

In its most moderate theoretical version, constructivism assumes that norms are constitutive of actors' identities and thus preferences. The focus is less on formal structures and powers; scholars turn to how ideas, beliefs, and socially constructed norms shape preferences and behaviour. Ideas, beliefs and norms develop in specific social contexts, which means that endogenous factors shape social reality and preferences. Changes in ideational and normative structures happen and do lead to change in political practices. This opens the possibility for studying ideas and belief systems as causal and constitutive of reality, not only as tools used to increase

influence or maximize power. In institutional variations of constructivism, structures do constrain actors, but actors can also transform structures by thinking about them and acting on them in new ways.

1.2.2.1 Insights on ideational sources of preferences in constructivist approaches

Ideational perspectives in constructivist literature emphasise the role of ideas in shaping preferences and thus action. The ideational strand focuses on the construction of narratives, how ideas enable actors to make sense of uncertainty in a policy environment, and how ideas underpin preferences and drive action. Ideational perspectives highlight the intersubjective dimension of preference formation. These approaches emphasize the causal value of shared ideas, focusing on the moment when an idea becomes so salient that actors achieve a normative consensus, which in turn governs their preferences. Action is driven by shared understandings within a peer community; ideas circulate between policy communities (Tsingou 2014) or epistemic communities composed of experts and professionals (Kaelberer 2003; 1992; Verdun 1999) that share common understandings and ideas and policy paradigms (Berman 2013; Hall 1993). Scholars have demonstrated how ideas become embedded in regimes (Ruggie 1982; Kratochwil and Ruggie 1986; Blyth 2002) which are a set of institutionalised ideas and norms that shape what rules and procedures govern the international economy. These approaches allow for an understanding of the relationship between the IO and actors in its environment based on how ideas are constructed and circulate.

In the EU context, Kathleen McNamara (1999) demonstrates how a neoliberal consensus was achieved around the idea of the Single Market and drove integration. More recently, Andrew Baker (Baker 2013), in his work on the ideational shift to macroprudential regulation post Global Financial Crisis, analysed the enabling conditions that determine how and why ideas are selected in periods of crisis. He argued that this ideational shift became the principal interpretative frame for financial technocrats and regulators seeking to navigate the crisis and respond to it, not only in terms of diagnosing and understanding it, but also in advancing institutional blueprints

for regulatory reform (Baker 2013). Ideas are selected because they were there before the crisis, because policy entrepreneurs pushed for those ideas, and because the explanatory capacity of the idea was plausible. This suggests that interpretive frameworks direct professionals' and policy-makers' attention towards certain solutions. Not only do ideas shape preferences, they dictate the way in which actors make sense of policy problems and shape solutions (Abolafia 2010).

Furthermore, constructivist approaches in Historical Institutionalism (HI) focus on the conditions under which ideas get embedded within institutions in politically consequential ways (Fioretos 2011, 376; Pierson 1996). These studies view the presence of particular institutions as key to whether new ideas matter⁸. For instance, Elliot Posner's study (2010) on the Committee for European Securities Regulators (CESR) points to the political work undertaken by CESR to push for establishing a specific regulatory regime to the EU. His work highlighted how the European regulatory regime for financial markets is primarily the product of a slow-moving institutional change processes. The author explains CESR's emergence as an influential actor in shaping the new regulatory regime in the EU through formal attributes such as "expertise, legally-based national powers, and ability to self-fund the new body" and to the specific governance mode of the "experimentalist architecture" and "weak political authority" of EU governance of financial markets (Posner 2010, 19–20). HI provides theoretical and analytical avenues for exploring and analysing path-dependent processes that act as selectors of potential solutions and how ideas can become embedded in regimes. As such, HI offers a more context dependent understanding of the origins of ideational preferences. But it tends to under investigate how the specific characteristics of IOs may shape their preferences.

These insights provide a basis for exploring the sources of preferences in decision-making. In combination with institutional path-dependent processes, ideational approaches offer a conceptualisation of how ideas shape preferences and how some

⁸ Historical institutionalism has been applied with rational choice understandings of institutional processes. Douglass North for instance theorizes how formal institutions induce self-reinforcing processes that make reversals of course increasingly unattractive over time (North 1990). In contexts of complex interdependence, new institutions and policies are costly to create and often generate learning effects, coordination effects, and adaptive expectations.

ideas prevail in shaping decisions. Nevertheless, ideational approaches are explanatory and focus on the causality of ideas in decision-making. Ideas are closely associated to decision-making output and the purpose of these approaches is to explain the role of individuals in policy choice. The role of broader beliefs and organizational culture in shaping preferences and organizational action is under developed. Such approaches fail to engage with how regulatory frameworks embody, enact and transmit social values and norms. The role of routines and taken-for-granted practices in guiding behaviour (March and Simon 1958; Pentland and Hærem 2015) is not taken into account. These approaches under investigate how specific organizational characteristics may shape organizational action.

1.2.2.2 Bureaucratic features, normative power and cognitive authority

I now turn to constructivist work that has been done on how specific bureaucratic features of IOs inform the way they behave. Drawing on the work of Weber on bureaucracies, authors Michael Barnett and Martha Finnemore theorize that IOs yield cognitive authority because of their claims to rational-legal authority and expertise (Barnett and Finnemore 2004; 1999). IOs are conceptualised as diffusers, defenders and advocates of norms (Park 2006) and the EU as a normative power (Manners 2002). In the wake of Barnett and Finnemore's work, a large number of publications have attempted to measure the influence of IOs in decision-making and as norm diffusers (for a recent comprehensive review, see Eckhard and Ege 2016). The literature on socialisation developed by Jeffrey Checkel, also provides mid-range theory to examine the conditions under which, and mechanisms through which, IOs, notably in the EU, socialize states and state agents, leading these actors to internalize new roles or group-community norms (Checkel 2005). Furthermore, there is growing literature on IOs that attends to organizational behaviour drawing from literature in public administration at national level. The literature focuses on the administrative aspects of international organizations, discussed under the headings of "international bureaucracies" (Litzo-Monnet 2017b; Trondal 2011), "compound bureaucracies" (Trondal et al. 2010), "International organizations" (Yi-chong and Weller 2018) and "international public administrations" (Knill and Bauer 2016; Christensen and Yesilkagit 2019). These studies provide a more fine-grained understanding of how organizational

characteristics shape organizational behaviour by focusing on what officials inside IO secretariats do on a day to day basis and by highlighting the administrative aspects of international organizations. Studies investigate IO autonomy (Chwierothe 2014; Bauer and Ege 2016) and operationalise the influence of IOs in decision-making starting from inside the organization (Broome and Seabrooke 2012) or different administrative roles (Trondal et al. 2010; Trondal and Peters 2013).

These studies provide insights into administrative characteristics and contextual factors, which refer to factors in the organizational environment, in order to measure the influence of IOs. They also highlight how civil servants working for international organizations operate in an environment where they face conflicting pressures: from member states, the international organization itself, interest groups, and so on. For instance, Jeffrey Chwierothe's concept of layering and his study of IMF staff offers an entry into the analysis of intra-organizational contestation, that is, contestation inside the IO between different groups of officials. Intra-organizational contestation happens along the lines of two possibilities: bureaucratic and ideational (Barnett and Finnemore 2004). Bureaucratic-minded actors within IOs are strategically concerned with organisational mandates and imperatives. Secondly, ideationally committed norm entrepreneurs are strategically concerned with seeking to build broader support for their beliefs (Chwierothe, 2014, 448). Layering is about how reformers work around institutional and political obstacles by incrementally adding revisions to existing institutions and avoiding directly assaulting them. This suggests strategic behaviour amongst bureaucrats, but takes into account how these officials *make sense of* the conflicting and diverging expectations in the organization's environment.

Moreover, Jarle Trondal and colleagues have argued that international bureaucracies are characterized by inbuilt tensions between different behavioural logics (Trondal et al. 2010). They see administrative behaviour as driven by civil servants' identification with specific 'roles', i.e. an attachment to specific principles. In international bureaucracies, officials face competing role expectations. Trondal and colleagues identify four main roles: what they term a "Weberian role" based on neutrality, administrative rules and attachment to the department; a "transnational epistemic role" involving reliance on scientific expertise and attachment to transnational expert

communities; “an intergovernmental role” centred on defending national interests; and “a supranational role” based on allegiance to the international bureaucracy and promotion of supranational interests. The behaviour of international civil servants will gravitate towards one or more of these roles. Which role dominates varies across international bureaucracies, depending on organizational features such as formal structures, recruitment procedures, inter-organizational relationships and staff characteristics (Trondal et al. 2010, 9; see also Trondal 2011). While this is an interesting account of what may constitute different organizational roles and how these guide action, it puts most of the emphasis on formal structures. The relative importance of respective roles depends on formal features of the organization. It does not operationalise how belief systems inside organizations resulting from learned behaviour, norm internationalisation or organizational memories, may also contribute to shaping roles. Furthermore, though this study offers the insight that organizations act according to different roles that derives from their characteristics, it leaves under-investigated the possibility that organizations may act according to *perceived* role expectations, or whether different motivations for action derive from role expectations. To identify this requires an investigation of how those inside organizations make sense of different organizational roles, and interpret the expectations about organizational behaviour that may derive from these different roles.

Here, the work of Leonard Seabrooke and André Broome (2012) offers a useful framework for investigating how IOs make sense of their environment. Using James Scott’s metaphor of “seeing like a state” (J. C. Scott 1998), Seabrooke and Broome develop a framework for investigating how different IOs “see” the member states as economic entities, i.e. the process by which IOs construct and focus their attention on economic policies for member states. The authors start with the premise that IOs have significant sources of cognitive authority and operational independence. They investigate how IOs, as knowledge actors, construct and deploy a variety of different forms of cognitive authority internally to shape policy preferences, politics and values of the actors in the social environment in which they operate (Broome and Seabrooke 2012, 13). The authors offer the concept of “analytical institutions” which are made up of the units and people who contribute internally to making legible a policy problem

and developing a solution. Whether this is conducted via surveillance, through consultations, committees, research departments or otherwise, analytic institutions seek to make an IO's member states legible (Broome and Seabrooke 2012, 3). The production of knowledge inside IOs is specific to each IO, but ultimately, knowledge is developed to inform policy solutions. From this perspective, the assumption is that organizational action is motivated by instrumentalist concerns: these approaches assume that IOs are motivated first and foremost with delivering their mandate. They harness intellectual resources to do their job well. The assumption remains that knowledge developed inside IOs is primarily used to deliver policy solutions to identified problems.

Because of their instrumental assumptions, scholars view the characteristics of bureaucracy that make IOs powerful as the reason why they are prone to dysfunctional behaviour. Because of this cognitive authority, IOs may become “unresponsive to their environments, concerned only with their own roles at the expense of primary missions, and ultimately produce inefficient and self-defeating behaviour” (Barnett and Finnemore 1999). IOs follow internal approaches to problem-solving regardless of the issue, which may lead to dysfunctional behaviour. Either IOs end up not providing a good solution because they “find it difficult to comprehend policy mistakes in advance” (Broome and Seabrooke 2012 7), or they behave in a hypocritical manner (Weaver 2008).

1.2.2.3 Sociological approaches in European public-policy and organizational studies

Scholars in the field of sociological approaches to the EU that these approaches are well suited to capture complexity in the European decision-making process (Saurugger 2016; 2013), offer a means of conceptualising an increasingly institutionalised environment (Laffan 2001) and are particularly useful at the EU level because that they take into account what are normally considered to be pathologies of the EU system, such as institutional fluidity, jurisdictional overlap and endemic political conflict (Ackrill, Kay, and Zahariadis 2013; Sabatier 2007). From the perspective of organizational action, the logic of appropriateness developed first in a sociological framework (March and Olsen 1989; 1984), and understood as a “co-evolution of

political actors and institutions” (March and Olsen 1998), became central to the constructivist perspectives that have mushroomed since 1990s (see Saurugger 2013).

These approaches to the EU have developed along broadly the following lines: first following a sociological institutional perspective, scholars have engaged with empirical studies of organizations centred around the concept of legitimacy (and its deficit) at European level (Goetze and Rittberger 2010; Fouilleux 2004; Tonra and Christiansen 2004), as well as studies on collective institutional cultures in the European Commission and how these relate to organizational change (Cini 1996; 2015; Bauer 2008; Ban 2013). Others have focused on the transfer of institutional forms such as independent agencies (Wonka and Rittberger 2010) or central banks (McNamara 2002) through mimetism, a variant of isomorphism in sociological approaches to organizational analysis (DiMaggio and Powell 1983). A second strand has developed focusing more on learning (Schmidt and Radaelli 2004; Kamkhaji and Radaelli 2017) and socialisation (Checkel 2005; Hooghe 2002; 2005) to explain policy preferences, and policy change.

In Jeffrey Checkel’s work, through socialisation mechanisms IOs engender a switch from a logic of consequences to one of appropriateness in states and state agents. This has been applied in the literature on Europeanisation for instance (Saurugger and Surel 2006; Saurugger 2014). From this perspective, socialization offers a compelling conceptualization of governance but it provides limited insight into the aims of organizational action, or how organizations make sense of actors in their environment and the pressures from their environment. Claudio Radaelli’s work on policy-learning in the open method of co-ordination brings some interesting insights into how organizations redefine their interests according to their environment, in relation to policy development (Radaelli 2008).

The socialisation literature has also led some scholars to investigate how norms shape organizational preferences by looking into the personal characteristics and beliefs of individuals inside IOs. For instance, in the specific case of the Commission, scholarship has sought to explain the organization’s agency and preferences by analysing the personal characteristics and preferences of Commission officials.

Studies present the diversity amongst Commission official's attitudes to the role of the European Commission (Ellinas and Suleiman 2012; Suvarierol, Busuioc, and Groenleer 2013; Kassim et al. 2013), focus on nationality and party-political orientation (Suvarierol 2011; Wonka 2008), and the degree to which the Commission is a vector for socialization processes (Hooghe 2005), including amongst National Seconded Experts who are not permanent officials of the organization (Murdoch and Geys 2014). These studies show how officials have multiple identities, but provide a somewhat narrow understanding of organizational culture. The role of routines, practices and learned behaviour in shaping organizational culture is less developed. Furthermore, this literature provides limited insight into the aims of organizational action, or how actors and organizations perceives expectations and pressures from their environment. More broadly, there is little investigation of how expectations in the IO's environment about what it should be doing are perceived inside the organization and whether these perceptions shape organizational action. There is little investigation of whether the Commission may act for alternative reasons than fulfilling their role of provider and diffusers of norms. And these approaches do not take into account the possibility that these norms may be manifestations of powerful beliefs about appropriate behaviour (March and Olsen 1984; 1998).

Sociological institutional perspectives in organizational and public management-oriented EU scholars have perhaps come the closest in capturing how the Commission perceives and interprets the pressures from its environment. Others provides insights on administrative culture and how it shapes organizational action and perceptions about expectations. Michelle Cini's study of how the European Commission handled ethical concerns following its resignation in 1999 is one of the first examples of a study of institutional change in reaction to its environment through an in depth analysis over time (Cini 2014). Cini conceptualises the Commission not just as a set of structures or as an organization in the functional and instrumental sense, but as a dynamic, living, changing set of "arenas for contending social forces, ...collections of standard operating procedures and structures that define and defend values, norms, interests, identities and beliefs" (Cini 2014, 5). This conceptualisation of the Commission enabled Cini to demonstrate gradual institutional change in the Commission, and

explain the risk averse engagement of the Commission in the reforms. Carolyn Ban's analysis of the management culture in the European Commission after the Kinnock reforms and enlargement processes in 2004 and 2007 is another example of how the analysis of internal reforms and administrative change provides insight into how the Commission perceives pressures and expectations from its environment. It is an in-depth study of organizational culture that provides solid evidence of the managerial turn of the Commission's administrative culture, the heterogeneity of administrative cultures inside the Commission, and how these underpin internal action (Ban 2013). These studies conceptualise how the Commission interprets and acts according to perceived external pressures by investigating how existing internal belief systems or administrative cultures shape these perceptions. In doing so, they provide interesting conceptual and methodological avenues for exploring how internal belief systems and management styles shape organizational behaviour according to a logic of appropriateness rather than based on a calculations of returns.

In what follows, I build on these works that draw on sociological institutionalist approaches to the EU and present a theoretical framework that views action as driven by securing legitimacy in the organizational environment, rather than solely as a means of expanding mandates and power, or fulfilling a mandate. I outline how sociological approaches in New-Institutionalism in organizational analysis (NI) provides a framework for understanding organizational action. It builds on the sociological perspective developed by March and Olsen in relation to the logic of appropriateness, more present in their earlier work in defining this perspective on organizational behaviour (March and Olsen 1984; 1989). The perspective ties in with the sociological institutionalist approaches to the EU and how these enable a better grasp of complexity in decision-making, notably taking into account multiple and even conflicting beliefs in the organizational environment. The theoretical approach grounded in sociological institutionalist approaches also addresses the collective dimension of organizational motivations for action.

1.3 New-Institutionalism in Organizational analysis: theoretical underpinning of a logic of appropriateness

In the next section of the chapter I outline how sociological approaches in New-Institutionalism in organizational analysis (henceforth NI) provide a compelling approach for investigating motivations for action inside IOs. I start by presenting the main theoretical premises of NI. I then outline what this approach contributes to studying motivations for action, by comparing it to other approaches. Thirdly, I present an organizational typology that characterises the sources of legitimation for IOs, and the implications for decision-making. And I conclude by presenting a list of indicators that operationalise the investigation of different motivations for action inside IOs.

1.3.1 The premises of New-Institutionalism in organizational analysis

1.3.1.1 Social legitimacy: institutions and institutionalised environments

NI stipulates that organizations act primarily out of legitimacy concerns because this enhances organizations' survival prospects. They are keen to secure resources and support from key actors in their environment in order to sustain the organization. However, legitimacy derives not only from output (measuring efficiency or performance), but also through conforming to beliefs in the organizational environment about appropriate behaviour (Scott 1991; Powell and DiMaggio 1991; Meyer and Rowan 1977; Scott 2008). Organisational legitimacy depends on norms of social acceptance, and a context, an environment that bestows legitimacy on organizational action. Environments can be considered institutional complexes, in which institutions are "cultural rules giving collective meaning and value to particular entities and activities, integrating them into larger schemes" (chapter 1 in Scott et al 1994). Institutionalised environments are a set of patterns, models or cultural schemes (a set of both implicit and explicit rules and norms) that stipulate what is appropriate behaviour.

Organizations are viewed as being subject to these institutional pressures and cognitive constraints. To secure legitimacy, organizations embrace formal structures regarded as appropriate or legitimate for organizations of the type to which they belong. Therefore, organizational forms are shaped by, and reflect socially constructed beliefs and norms present in the environment. Nevertheless, NI conceptualises the boundary between the organization and its environment as much more fluid than may be suggested by the idea of constraining institutionalised environments. Indeed, NI does not treat organizations as organic wholes, but “as loosely coupled arrays of standardized elements; [...] organizational forms, structural components, and rules, not specific organizations, are institutionalised” (DiMaggio and Powell 1991, 15). Organizations are embedded in a field, sector or society. This conceptualisation of the organization captures the multi-layered, multiple cognitive maps and practices that constitute organizations, and allows for the possibility that organizations reflect multiple institutionalised beliefs present in the environment.

1.3.1.2 Isomorphism and routinized behaviour

Organizations conform to beliefs in the environment by being isomorphic with the environment (DiMaggio and Powell 1983), meaning they incorporate and reflect socially valued and validated rules and norms in the environment. This incorporation and reflection implies adopting formal structures and procedures that reflect beliefs in the environment and adopting practices and behaviour that have become taken-for-granted or routinized over time. Formal structures, such as formal organizational chart and stated goals and objectives, are a reflection of institutionalised patterns and beliefs systems in the environment (Meyer and Rowan 1977a). Furthermore, the numerous taken-for-granted rules and scripts that exist in the wider organizational environment shape and frame expectations about appropriate action. These rules and scripts “frame thought, shape behaviour, and constrain interpretation” (March and Olsen 1995, 31). They involve shared modes of reasoning that help create a shared understanding of reality and “mutual, often tacit understandings, of what is true, reasonable, natural, right, and good.” (March and Olsen 1989). Rules become widely held normative expectations about appropriate behaviour as they are internalised and routinized over time. And as action becomes routinized over time, it constitutes distinct organizational

identities/cultures inside organizations that shape their goals and preferences (Selznick 1949) adding to “a repertoire” of taken-for-granted rules and expectations that guide organizational action. This conceptualises the sources of preferences as deriving from processes of internalization in the environment, and an institutionalisation of practices and beliefs over time inside the organization.

1.3.1.3 A logic of appropriateness that guides behaviour

Action that is based on rule-following and identifying normatively appropriate behaviour (logic of appropriateness) is different from action that is driven by calculating expected returns or the consequences of choices (logic of consequentialism). Instead of anticipating future consequences, as most conceptions of rationality would assume, actors use criteria of similarity and congruence to guide their action (March and Olsen 1984; 1989). Instead of starting with identifying the different alternatives available, and then choosing the alternative based on estimations of the future consequences, a logic of appropriateness follows a line of reasoning that starts with identifying and making sense of a situation, and assessing which action is appropriate in this situation. Actors interpret situations and act upon them drawing from “a repertoire” of taken-for-granted rules and associate situations with rules of appropriateness through similarity and habit. Having identified a situation, they will act according to the appropriate rules and ways that are expected under such a circumstance: “choice involves matching a situation with behaviour that fits it” (March and Olsen 1989, 23).

Following NI, organizations are driven by legitimacy concerns and act according to what they perceive as expected and appropriate from their environment. This opens the possibility that organizations may act ethically or responsibly not because of any direct link to a positive organizational outcome (prestige, resources, mandate expansion) but merely because it would be unthinkable to do otherwise. Organizations might define and structure their activities around particular functions that reflect institutionalised and prefabricated classifications of appropriate structures, organizational models collectively sanctioned as appropriate and legitimate. Organizations may look for projects and solutions not because of the existence of a

problem or task to complete, nor in the pursuit of a specific agenda, but because they are expected to produce plans, rules and regulation (Powell and DiMaggio 1991; March and Olsen 1984). From this perspective, they enact their role as bureaucracies. In the next section, I present what this approach brings to studying motivations for action by comparing it to other approaches to organizational behaviour.

1.3.2 Conceptualising organizational behaviour

In the following section, I present the value in using an NI approach for the investigation of motivations for actions inside organizations.

1.3.2.1 Symbolic accord with the environment as a source of legitimacy

As I have previously outlined, predominant IR literature has traditionally viewed organizational action from a functionalist perspective. IOs act to solve collective action problems, to enable coordination and to correct asymmetric information distribution. These functions explain the existence of IOs and underpin their legitimacy. In rationalist approaches to delegation (trustees, PA), IOs' legitimacy derives from the continued value they represent for their principals (Hawkins 2006). IOs are created to enable and deliver better outcomes relative to the result that would be likely if elected politicians at national level were to perform the functions themselves. Securing legitimacy is something that is measured by the IOs' output and their ability to perform the tasks they are assigned according to the formal rules and procedures designed by principals. In a competitive, complex, and constantly changing world, organizations must be effective in order to survive. In the liberal tradition in IR and IPE scholarship, legitimacy is not just contingent in the narrow sense on principals (member states) recognising that these organizations are fulfilling the mandate they were created for. Legitimacy takes on a more normative dimension as bureaucracies embody a form of decision-making and formal structures that are considered better in an integrated decision-making and policy-making world (Ikenberry 2001; Keohane 1998). They are more efficient because they draw on expertise, and because of the procedures they use such as transparency and consensus-based decision-making (Thatcher and Sweet 2002, 20). Much of this literature centres around the idea of efficiency: efficiency assumes the existence of an optimal outcome defined in practical terms as the IOs' stated goals.

From this perspective, rules are put in place to guarantee better, more efficient outcomes and only contribute to enhancing outcomes. Formal structures organize output and action according to rational legal procedures and rules, and legitimacy is related to how procedures lead to better performance.

In constructivist approaches, the rational-legal characteristics of IOs and the authority that they derive from these characteristics are the sources of IOs' legitimacy (Barnett and Finnemore, 2004). The characteristics of bureaucracies – the embodiment of rational-legal authority and the reliance on expertise to inform decision-making – are particularly valued in modern society; and it is because these forms of governance are particularly valued that IOs are legitimate (Barnett and Finnemore 1999). These accounts view organizational legitimacy as deriving from organizational sources of authority linked to the characteristics of bureaucracies. They build on a Weberian perspective of bureaucracies: they provide a framework for social interaction that can respond to the increasingly technical demands of modern life in a stable, predictable, and nonviolent way. Bureaucracies exemplify rationality and are considered technically superior to previous forms of rule because they bring precision, knowledge, and continuity to increasingly complex social tasks. The sources of legitimacy derive from a social construction of what is valued about bureaucracies. But this approach assumes that bureaucratic tasks, and indeed actions, are geared in some way or another towards providing a framework for social interaction that derives from rational-legal authority and their control over expertise. This work assumes that IOs derive legitimacy from fulfilling their mandate. IOs gain legitimacy by continuing to perform according to the criteria of rational-legal procedures and drawing on expertise to inform their decisions. Thus, accounts that view organizational legitimacy as deriving from organizational sources of authority linked to the characteristics of bureaucracies assume that organizational action is first and foremost focused on delivering their mandate. The link between procedures and outcome is maintained in a means-end relationship. Any empirical evidence that uncovers deviation from fulfilling these organizational functions is considered “pathological” (Barnett and Finnemore 1999), “deviant” (Vaughan 1999) or “hypocritical” (Weaver 2008), and, in turn, undermines the basis of their legitimacy.

NI also views the sources of IO legitimacy as derived from the beliefs and values that pervade the organization's environment. Adopting rational-modes of decision-making is one of the most important norms and institutionalised beliefs in modern societies. But from an NI perspective, norms of efficiency (rationalisation) function as powerful myths that pervade the organisation and its environment (Meyer and Rowan 1977) rather than as a motivator for action. In NI, the sources of legitimacy stem from the IO's ability to reflect these institutionalised beliefs and to "create a *symbolic accord* with its environment" (Brunsson, 2002, my emphasis). It is the myth that guides organizational behaviour, and the organisation's ability to successfully embody and reflect this myth that generates legitimacy. NI emphasises the symbolic dimension of rule following: organizations enact institutionalised beliefs in the environment in the form of routines, ceremonial rule following, and isomorphism with the environment and adopt external assessment criteria as a means to reflect institutionalised rational myths in the organizational environment (Meyer and Rowan 1977, 350). Formal structures are the reflection of institutionalised beliefs about rationality that function as myths: "institutional rules in society function as myths depicting various formal structures as rational means to the attainment of desirable ends" (Meyer and Rowan 1977, 341). From this perspective, an organization may adopt the *trappings of* rational-legal procedures and *signal* the reliance on expertise to secure social legitimacy rather than act according to rational-legal procedures or draw on expertise to inform choices in decision-making. Furthermore, the organization can enhance its social legitimacy by signalling credibility through ceremonial awards, endorsements by important people, or the prestige of programs or personnel in external social circles (Meyer and Rowan 1977). This suggests that IOs may act strategically to increase organizational prestige.

It is important to underline that this type of behaviour is not driven by rational calculation to mislead actors in the environment whilst pursuing other, more power-maximizing goals. Nor does this behaviour necessarily undermine IO legitimacy because of pathological behaviour (Barnett and Finnemore 1999). Adopting the trappings of rational-legal procedures and signalling are not simply the result of strategic behaviour, and signalling is not enough to secure legitimacy. Legitimacy

stems from the fact that organizations simultaneously and successfully reflect conflicting norms and expectations in their environment. Because organizations are able to mirror institutionalised beliefs in the environment and expected behaviour, they increase the organization's survival and social legitimacy. Prestige is not a resource that is achieved at the expense of a rival organization for instance; an organization can increase its prestige without diminishing another's⁹. It is bestowed on the organization in relation to how it conforms to valued and validated beliefs in the environment, rather than according to what others do. As underlined by Richard W. Scott, "legitimacy is not a commodity to be possessed or exchanged, but a condition reflecting cultural alignment, normative support, or consonance with relevant rules or laws" (Scott 2008, 45). Furthermore, the formal structures depict the processes and structures by which organizations are *supposed to* pursue and attain their goals; they do not necessarily depict the way organizations *actually act* on a day-to-day basis. This allows for a conceptualisation of day-to-day organizational action that is decoupled from formal structures (Meyer and Rowan 1977; Brunsson 2002). It provides a basis for understanding the gap between what an organization professes to do and what actually happens that stems from other motivations than stealth or deception (power-maximization) or pathological behaviour linked to flawed incentives or structures. And it shifts empirical investigation from formal aspects to such matters as organizational history and memory, informal structures and decisional processes, and accepted working practices. It calls for looking at what people are doing, not just what they are supposed to be doing.

1.3.2.2 Multiple expectations in the environment

This conceptualisation of how legitimacy is bestowed on an organization by its environment – the ability to successfully embody and reflect institutionalised norms

⁹ By contrast, the literature on status and reputation owes much to management studies of for profit organizations, such as pharmaceutical companies (Higgins and Gulati 2003) or high tech firms (Deeds, Mang, and Frandsen 2004). The literature tends to focus on the reputation of the employees and how this bestows prestige to the firms. And though these organizations will derive legitimacy from conforming to norms in their environment, they are by nature producers of measurable output and can be assessed against the value of their products. Thus, status reflects a relative position in a competition. And reputation usually involves a strategic resource that firms can exploit for competitive advantage.

in the environment – opens the possibility for other motivators for action than instrumental or power-maximisation. Environments can “favour organizations for reasons other than efficient or responsive behaviour. For example, organizations may be supported for reasons of normative fit rather than efficient output; they may be created not for what they do but for what they are – for what they represent symbolically and the values they embody” (DiMaggio and Powell 1991, 5). Nevertheless, the environment is not a coherent, larger-scale rationalised actor, which controls organisations directly through bureaucratic rule and enforced incentives. Walter Powell writes about the “heterogeneity in organizational environments” (Powell 1991, 195) and Richard W. Scott conceptualises the organizational environment in the following manner: “there is a differentiated model of institutional contexts; the institutional environment is not one but multiple. There are multiple and competing, even contradictory versions of institutionalised belief systems” (Scott 1991, 167). The institutionalised environment is not a homogenous belief system or a set of rational interests. It is constituted by different norms and belief systems that can be contradictory and even conflicting, sometimes leading to a highly fragmented legitimating environment.

As a consequence, IOs are required to reflect and act according to different, and sometimes contradictory expectations in the environment in a bid to secure social legitimacy. Jarle Trondal and colleagues (2010) have argued that IOs are characterized by inbuilt tensions between different behavioural logics based on civil servants’ identification with specific ‘roles’. Officials in IOs face competing role expectations and, depending on the characteristics of an IO, its officials will gravitate towards one role or another. NI offers a theoretical approach that allows for the existence of competing role expectations *simultaneously* driving organization behaviour (Brunsson 2002, 20; author's emphasis). And it allows for understanding organizational action as driven not just by “roles”, i.e. organizational identities, but by taken-for-granted beliefs that pervade the environment and the organization about appropriate ways of proceeding or values. For instance, the belief in the efficacy of modes of decision-making that draw on expertise and consider multiple possibilities to inform choice can come into contradiction with organizational identities about efficiency (swift action)

(Brunsson 1985); or the value of impartiality may jar with organizational beliefs about the benefits of one solution over another. As an example, Jacqueline Best's work on ambiguity in the IMF conditionality policy highlights the tensions between delivering organizational output (policy) and acting according to normative expectations of transparency in decision-making (Best 2012).

Nils Brunsson (2002) draws on NI to investigate how organisations cope with different sources of legitimacy in the environment. He builds on Richard W. Scott (1991, 167) who put forward the idea that organizations can be subject to both institutional and technical pressures because they draw their legitimacy both by reflecting institutional patterns in the environment and through their output. Brunsson stipulates that modern organizations are often exposed to inconsistent demands from their environments (Brunsson 2002) and that most organizations are required to be isomorphic – thus reflecting inconsistent norms in their environment – *and* produce output. Delivering output is inherently inconsistent with reflecting certain norms in the environment. This stems from the fact that examining multiple alternatives is lengthy, highlights uncertainty and increases the potential for dead-lock, and thus reduces the likelihood of reaching a consensus on output/action (I come back to the assumptions of rational modes of decision-making in the last section of this chapter entitled 'Organizational typology and decision-making').

1.3.2.3 Agency and fluidity

According to NI approaches, organizations structurally reflect socially constructed reality and organizations are dramatic enactments of the rationalized myths pervading modern societies (Meyer and Rowan 1977; Scott, Meyer, and Associates 1994). This has led to an imagery of NI that depicts overly constraining environments, and the idea that organizations are passive. However, as I have already outlined, institutional environments are multiple and competing, and contradictory institutionalised belief systems pervade the environment (Scott 1991; Powell 1991). This conceptualisation of a differentiated and competitive institutional environment also supports the view that organizations are not passive actors being imprinted by cultural templates. It allows for strategic choice: "organizations may be expected to exercise "strategic

choice” in relating to their institutional environment” (Scott 1991, 170)¹⁰. Organizations may accommodate conflicting institutional demands in different ways, by compromising with external pressures, or complying with some expectations while challenging others. The macro-side of NI has micro-foundations (DiMaggio and Powell 1991, 16) in as much as it is individuals in organizations that act and enact the scripts. Rather than being the simple receptacles of institutionalised rules and scripts downloaded from the environment, officials inside organizations internalise and make choices about which of these institutions – in the form of expected behaviour – brings meaning and purpose to action.

Indeed, officials inside organizations associate rules with situations through complex cognitive processes: “rules can reflect subtle lessons of cumulative experience, and the process by which appropriate rules are determined and applied is a process involving high levels of human intelligence, discourse, and deliberation” (March and Olsen 1989, 22). Rules, identities, and institutions provide parameters for action rather than dictate a specific action. Routinized and taken-for-granted behaviour is not a passive form of action; it is a means by which attention is directed to selected aspects of a situation. Officials do not just download scripts, they interpret situations and make choices about which appropriate action to take. Fitting a rule to a situation is an exercise in establishing appropriateness, where rules and situations are related by criteria of similarity or difference through reasoning by analogy and metaphor. The process is mediated by language, by the ways in which participants come to be able to talk about one situation as similar to or different from another, and assign situations to rules at the same time as the rules change (March and Olsen 1989, 26).

However, it is important to stress that the cognitive process of fitting rules and identities to a situation is different from how the concept of bounded rationality in policy-making has come to be understood. Bounded rationality implies that choice is inevitably restricted because actors cannot be in possession of all the knowledge needed to inform the decision. Decision-making is bounded because one could always

¹⁰ Zucker, by referencing Pamela Tolbert’s 1988 work on institutional sources of organizational culture in Major Law Firms (Zucker, 1991, p.105) also points out that there is such a thing as variations in strategic response to the same environment.

increase the level of input into the decision-making process. In power-maximization approaches, this would entail making decisions in conditions under which the other actor's interests are not all known (game theory). In both cases, the logic is consequentialist: bounded rationality assumes that actors act by anticipating consequences given the knowledge they have. In NI, "institutions do not just constrain options: they establish the very criteria by which people discover their preferences" (DiMaggio and Powell 1991, 11). Institutionalized beliefs have a complexity reduction effect that determines what individuals will consider rational at a given. Officials interpret their own actions through institutionalised categories in the environment: "environments penetrate the organization, creating lenses through which actors view the world and the very categories of structure, action and thought." (DiMaggio and Powell 1991, 13). From this perspective, organizations are embedded in a field, sector or society and the nature of embeddedness is constitutive; the boundaries between the environmental field and organizations are fluid.

To conclude, the approach to organizational behaviour that is grounded in NI allows for:

- a conceptualisation of organizational behaviour that is driven by other considerations than instrumental concerns about fulfilling a mandate and performance enhancement;
- a conceptualisation of the relationship between the organizational and its environment that allows for behaviour that responds to different expectations simultaneously;
- an emphasis on how perceptions shape behaviour, which allows for a much more dynamic and highly contextualised conceptualisation of organizational behaviour.

In the next, I present an organizational typology that characterises the sources of legitimation for IOs, and the implications for decision-making.

1.3.3 Organizational typology and decision-making

1.3.3.1 Organizational typology and basis for legitimation

The way in which an organization derives legitimacy depends on what the organization produces and does; different types of organizations derive legitimacy from reflecting institutionalised norms in the environment or from organizational output. Nils Brunsson provides a useful distinction with his ideal-typical categories of “action organizations” and “political organizations”. “Action organisations” derive their legitimacy from results (Brunsson 1990). “Political organisations” derive their legitimacy from processes. Political organizations tend to focus more on process than on outcome because they derive their legitimacy from the procedures and processes they adopt as much as from the outcome they produce. Structures and processes in the political organization are aimed directly at the environment. “The political organization sets great view by what it says, orally and in writing. Talk, in the broader sense of the spoken or written word, is produced not only for internal purposes, but also and more importantly for the environment.” (Brunsson 1990, 26). Political organizations derive legitimacy from what Brunsson calls ‘talk’ and ‘decisions’ because talk and decisions are the means by which organizations reflect institutionalised norms in the environment. Legitimation through talk implies espousing certain norms and values in the organization’s formal structure and its rhetoric. Legitimation through decisions implies being seen to take action to respond to issues that have been framed as requiring political action (Boswell 2009). To cater to different expectations in the environment, organizations talk in a way that satisfies one demand, decide in a way that satisfies another, and supply products in a way that satisfies a third (Brunsson 2002, 27) They decouple talk (the spoken and written output) from decisions and from action (output). And because conformity to institutional pressures in the environment may be contrary to the dictates of efficiency, conformity may be ceremonial.

Boswell (2017) further refines the organizational typology and introduces the “expert organization”: “operating in an un-politicized area, [the expert organization] tends to orient its actions towards its peer group, or policy community, generally composed of experts, technocratic actors and other organizations. However, it is operating in a

sector in which the outcomes of its interventions are difficult to observe and attribute. Thus, its mode of legitimation is largely symbolic: much of its activity is orientated towards meeting expectations of specialized peer organizations in terms of appropriate norms, procedures, knowledge use, and decisions.” (Boswell 2017, 30). The organization is embedded in an institutional environment that values rationalistic and technocratic processes which define means-ends relationships, values expertise and impersonal processes, and focuses on performance measurement. This typology of organization is characterised by a highly technical and expert based organizational field, often with very weak democratic legitimacy mechanisms, but whose output is mainly talk (spoken and written word) and decisions, rather than products. This type of organisation is unable to derive legitimacy from action, because its outputs are more difficult to observe and attribute.

Typically, most IOs are expert organizations. They evolve in a technical and expert-based organizational field. Global governance issues are often complex, uncertain and regulatory in character, and the assumption is that specialized expertise is required to support efficient outputs (P. M. Haas 1992; Majone 1996a). Furthermore, IOs’ output is mainly talk and decisions and their activity consists largely of decision-making processes. But in many areas, it is difficult to measure performance or the impact of their decisions. They also lack the democratic legitimacy and ability to make binding decisions. Not only do IOs have a fragile basis for legitimation, they operate in an environment in which they face multiple pressures and expectations that are sometimes conflicting. Thus, IOs’ mode of legitimation stems from meeting expectations of specialized peer organizations in terms of appropriate norms, procedures, knowledge use, and decisions.

1.3.3.2 IOs and decision-making

IOs derive their legitimacy from following rational-legal procedures and processes that favour technocratic forms of decision-making. For instance, if the policy community in the organizational environment values rational modes of decision-making, the organization will mimic these because it enhances the credibility of the organization. Alternatively, decision-making may give rise to expectations about appropriate procedures and behaviour (Brunsson 2017). The organization may be expected to

conform to rational-modes of decision-making or technocratic forms of decision-making. This entails reaching a decision through means-ends relationships and adopting impersonal processes that invoke expertise, such as the use of internal or external expert knowledge, the publication of impact assessments and consultations. By adopting the rational style of decision-making, an organization can demonstrate that its decision-making processes conform to norms of rationality and expected behaviour. The adoption of the rational style of decision-making process is valued for its symbolic dimension rather than its functional role in facilitating the choice between different alternatives. An organization publicises the rational-mode of decision-making in an effort to legitimise the preferred alternative or to signal that the organization makes appropriate decisions. The policy alternative is less important than reaching a decision. In this case, policy solutions that have been floating around for a while might be valued as ready-made answers to formulated problems (Olsen and March 1972). There can be a decoupling between the policy solution and the problem, as the focus will be on signalling that the decision was made according to rational-modes of decision-making. An organization might engage in decoupling between the narrative (talk in the form of press releases, speeches, preambles or surrounding language) around the decision, and the content of the decision – i.e. the policy implications (Brunsson 1990b; Stone 2002, 159). And finally, organizations may also rely on expert knowledge to gain legitimacy and substantiate preferred solutions, not necessarily to reach efficient outcomes according to rational-legal modes of decision-making (Boswell 2009; Littoz-Monnet 2017b).

This highlights that the decision-making process is a much more complex form of organizational action than is assumed by instrumental and power-maximization approaches to organisational action. Acting according to rational-modes of decision-making entails following a logic of consequentialism. However, decision-making may also be symbolic or isomorphic and follow a logic of appropriateness.

1.3.4 Observing motivations for action in decision-making: some indicators

The approach I have developed drawing from NI, supports the exploration of a broader set of motivations for action in decision-making that includes legitimacy concerns, not only power-maximization and instrumental concerns.

Decision-making that aims at problem-solving is driven by considerations to find the best possible solution to a problem, albeit taking into account possible political, financial or institutional constraints. I have labelled this logic/motivation for action *instrumentalism*. Power-maximization implies actions that are driven by motivations to gain power, maximize control or expand an organization's mandate vis a vis other actors; I have labelled this type of logic/motivation *power-maximization*. The thesis adds to this a third account: motivations for action that are driven by *legitimacy concerns*; organizational action is aimed at conforming to a set of institutionalised rules and beliefs in order to secure legitimacy in the organization's environment. All three accounts assume actors in organizations behave in a rational way, but each has a different understanding of the types of considerations and logics driving organizational action.

It follows that there is a need to investigate motivations for action in decision-making from within the organization. An analysis based on formal structures, staff profiles, public events and published official documents, while pertinent, would only yield partial insights into what underpins organizational behaviour. There is a need to look at "the way organizations present themselves to the environment, at events within the organizations, and the way they are seen by the actors involved; this must be chartered in detail before we can understand why the actors behave as they do" (Brunsson 2002, 11). Furthermore, any understanding of actions must refer to the beliefs and desires that cause them; the centrality of perceptions in guiding behaviour requires an investigation of how those involved talk and explain their actions and decisions. To paraphrase Alexander Wendt, a central premise of a constructivist approach is to get inside the heads and discourse of decision-makers to see what is motivating their behaviour (Wendt 2001, 1028). Only by referring to the beliefs and narratives of those involved, can the analysis generate any understanding of whether organizations are

motivated by goals to expand their power and influence, solve problems and fulfil their mandate, or secure legitimacy to sustain the organization. I therefore propose to adopt an interpretivist methodology to support the research aims to explore motivations for action. Chapter Four provides the detail on the methodological approach, data and analysis to carry out this empirical research.

Nevertheless, identifying these different motivations for action through empirical research is a challenge because qualitative research engages with the messiness of what actually happens inside organizations on a day-to-day basis. Motivations for action are not necessarily mutually exclusive; they may overlap or might be stronger or weaker at different stages of the decision-making process. Different units inside an organization may pursue action for different reasons. To support the empirical work of identifying different motivations for action at each of the stages of the decision-making process, I have developed a list of indicators. They are observable characteristics that can be fairly reliably associated with, respectively, action that derives from instrumental, power-maximizing and legitimizing motivations for action. These indicators are a means to navigate the empirical analysis; they provide, quite literally, more or less strong indications of the existence of instrumental, power-maximization and legitimacy concerns underpinning action. In doing so, they support the purpose of providing a richer and more complex picture of what motivates organizational action in decision-making.

I have developed five different indicators that aim at capturing observable characteristics of different motivations for action to do with *timing* (how swiftly an organization seeks to act), *audiences* (who the organization targets), *substance* (how the organization selects and uses input), *who is involved* (the human resources and knowledge that the organization draws on), and *steering* (how closely the organization guides deliberations). For each of these five indicators, I consider them in relation to each of the three theories of motivation: instrumental concerns, power-maximization concerns, and legitimacy concerns.

Timing

The first indicator is that of *timing* of the relevant decisions/actions. The extent to which the organization is keen to take swift decisions (or to allow or promote a more prolonged decision-making process) can help indicate its underlying motivations.

Instrumental concerns: the organisation would be concerned to pursue an effective response, and thus allow sufficient time to develop the right decision. This suggests that the organization would want to give enough time to get decisions and resources to deliver the right solution. A more prolonged decision-making process may enable the right solution to emerge. In a context in which an exceptional event triggers a need for a solution (crisis for instance), the organization may seek decisions and resources more swiftly.

Power-maximization concerns: evidence would point to the organization moving very swiftly to strategically position itself. Swift action would enable it to exploit its informational advantages, in particular in a context of uncertainty. At the agenda-setting phase, it would act swiftly to position itself as a central player in the decision-making process and it would want decisions reached swiftly to exploit in full the opportunity of acquiring resources and expanding its competences.

Legitimacy concerns: evidence would also point to swift action; but action would be driven by a concern to signal appropriate action, rather than strategic positioning. It would want to signal action in response to a perceived situation in which it needs to be seen to be taking action rather than a focus on delivering the right solution, swiftly reaching a decision or gaining new resources and influence. Swift decisions at the agenda setting phase may be expected. But there may be less evidence of swift action at later stages of the decision-making process as the organization would not necessarily be aiming at gaining influence. Swift access to resources or swiftly reaching a decision would be driven by considerations that are more symbolic and that aim at responding to perceived organizational vulnerabilities rather than positioning to increase its powers or on getting the right answer under time constraints. The organization would put emphasis on *signalling* and *showing* its ability to act swiftly.

Audiences

This indicator focuses on the organization's interactions with external actors. The manner in which the organization communicates provides insight into whom it wants to persuade and influence. Relevant features centre on how the organization presents itself and communicates in the decision-making and how it disseminates information. These features provide insight into whom the organization wants to target, enlist or convince.

Instrumental concerns: interaction would aim at coordination and target those audiences that the organization needs for producing the best solution. Communication would be orientated towards delivery. Evidence should point to talk that focuses on the more technical and practical aspects of the decision-making and policy-making process.

Power-maximising concerns: the organization would target actors who are in a position to have an influence in supporting the organization to secure buy-in for proposals that maximize the organization's powers. The organization may engage in tactical communication and enlist actors in an alliance that supports the organization's aims of increasing its expansionist goals. There may be evidence of only minimal official communication or rhetoric. Tactical communication to maximize powers would be largely characterised by a 'stealth approach' to enlist and woo actors into supporting the power-maximization goals of the organization.

Legitimacy concerns: the organization would interact with audiences that it believes it needs to prove itself to. The organization communicates to increase or sure up its credibility rather than to build strategic alliances to maximize its influence (power-maximization). Communication would be symbolic, aimed at publicizing its role and resources to meet expectations about appropriate actions. Alternatively, there may also be evidence of communication that aims at *demonstrating* access to credible knowledge, including the commissioning of research and expertise from recognised experts. Communication (written and spoken) would emphasise that the organization is using the "best brains" or is working with renowned organizations or individuals in a bid to increase organizational prestige.

The substance of the reform proposals

This indicator helps gauge how the organization selects and uses different inputs to adjust the content of reform proposals and decision/s according to different motivations for action.

Instrumental concerns: the organization would adjust the content of proposals and/or decisions according to input that is considered relevant for defining the right, or best solution to a diagnosis. The substance of the proposals would not necessarily be on the organization's role in the proposals and/or decision, but on delivering a practical and feasible solution that clearly responds to the analysis of the problem. Input would be selected and used to adjust contents with a view to achieve a deliverable and feasible proposal.

Power-maximization concerns: the organization would pick and choose input in a tactical manner, favouring input that would increase formal powers and influence. It would select aspects of input to advance organizational clout. The organization would select inputs best equipped to serve its power-maximising agenda, regardless of whether input and expert recommendations were explicit about the organization's role. Evidence may yield selection of input that supports a strong involvement of the organization in the governance framework, delivery or management of the proposal and/or decision put forward.

Legitimacy concerns: the organization would select input that mirrors what it believes to be expectations in the environment. The organization would select aspects of input based on how it fits with the organization's internal goals, and views about its role (organizational culture). Selected input would aim at mirroring organizational goals and be in line with organizational culture, rather to respond efficiently to the analysis of the problem. It would select those aspects of input that it believes respond to what is considered appropriate regardless of whether it provides the best solution to the diagnosis of the problem or increases its powers and influence. This means that evidence could point to a drift from input not necessarily because of picking and choosing, but because of a perception that certain input does not fit with internal belief

systems. And evidence could point to copy-pasting input, not because it offers the best solution, but because that is what the organization perceives it is expected to do.

Who is involved

This indicator has to do with what (human) resources the organization draws upon in the decision-making process. This includes the type of experts, stakeholders or stakeholder organizations it uses and calls upon externally, and who is deployed inside the organization: the different organizational units, and staff profiles—technocratic or technical skills, or strategists and political profiles.

Instrumental concerns: externally, the organization draws on experts and stakeholders/stakeholder organizations that support producing the best solution. Experts and stakeholders are valued and used by the organisation based on their competence and skills in the issue area, and how qualified they are to inform the decision-making process towards the right solution.

Internally, officials involved in the decision-making would have profiles that are more technical and technocratic, with skills that would support delivering the right/best solution. The staff involved may be desk officers and seconded national experts for instance, and may have expertise and organizational experience in the issue area or in procedural matters to deliver the right solution given the constraints.

Power-maximising concerns: externally, the organization would enlist experts and stakeholders/stakeholder organizations to bolster its capacity to gain influence whilst excluding those that wouldn't. It draws on these actors to bolster its chances of gaining more influence, by building alliances and increasing its bargaining power vis-a-vis rival organizations. There may be evidence of highly technical or specialised expertise that would enhance its capacity to exploit informational asymmetries.

Internally, officials are likely to have more political profiles, and be in positions to influence or act strategically. Their skill set would be geared more towards their ability to build strategic alliances or to carry out informal negotiations to secure buy-in for strategic organizational goals. In the units involved in the decision-making, there would be evidence of officials in the higher echelons of the organization. Nevertheless,

if these officials have been serving in the organization for a long time, there may also be a possibility that socialisation into organizational culture may also have taken place.

Legitimacy concerns: externally, the organization would put less emphasis on the competences and qualifications of the experts and stakeholders/stakeholder organizations it enlists or draws upon. Instead of the specific competences and qualifications for the issue at hand in the decision-making, the organization would value more general attributes (neutrality and impartiality), and symbolic attributes such as reputation or prestige; these actors would be used to bestow credibility on the organization.

Internally, though the profile of those involved might not, at first view, indicate legitimacy concerns, a strong involvement of the highest echelons of an organization's leadership, over and above the units in charge of the relevant portfolios in the decision-making, could be evidence of the perceived importance of the decision-making process for the organization's credibility more generally. And seniority and longevity of service amongst officials involved may point to socialisation into the organizational culture.

Steering

This indicator deals with how closely the organization guides deliberation and the manner in which it steers deliberations (formal procedures or informal processes).

Instrumental concerns: the organisation steers the decision-making/external inputs to the extent that it needs an effective solution – it needs the response to be relevant to the problem. This may require relatively strong oversight and steering to keep the process on track; and an interest in shaping the content would be driven by a concern to deliver a feasible and practical solution. Timelines and mandates would clearly link the process to the issue under discussion. With regards to steering external deliberations, terms of references may be clearly defined but the organization wouldn't necessarily be strongly involved in shaping the content, except perhaps in an administrative support capacity or as facilitator. More generally evidence of roadmaps

with clear progress and reporting stages may be expected, provided the quality of the governance is good.

Power-maximising concerns: the organization would want to closely steer the process and have control over knowledge input, shaping it to satisfy power-maximization ambitions. Steering the process may be formal or informal depending on whether a formal process favours the involvement of the organization, or whether informal intervention would be more conducive to getting control over shaping the input. There may be evidence of attempts to direct an issue to the specific venue that is most receptive to the organization's claims. The organization may be reluctant to publish, or may withhold information about the selection process and knowledge production process.

Legitimacy concerns: steering would be driven by a concern to signal that the organization is addressing the problem according to expected rules and perceived role expectations. There would be evidence of strong steering but with a purpose to signal that the organization is following established procedures. The organization would be less interested in shaping the content (maximization concerns) or setting the roadmap for research (instrumental). For instance, consultations may be carried out as a means to signal that the decision-making process follows formal procedures, rather than to gather and adjust content. Mandates or terms of references may be detailed or vague but not necessarily adapted or clearly linked to the specific issue under discussion, or the requirements of the context of the decision-making.

Conclusions: Setting up the empirical investigation of motivations for action

In this chapter, I have unpacked the assumptions that different theoretical approaches make about motivations for action in organizations. I have highlighted the limitations of rational choice approaches, and built on constructivist and public administration approaches to propose an alternative theoretical framework. This approach supports

the exploration of a broader set of motivations, that includes legitimacy concerns, not only power-maximization and instrumental concerns.

To recapitulate, according to an NI approach, organizations respond not only to other actors pursuing material interests in the environment but also to normative and cultural forces that shape how organizations see the world and conceptualize their own missions. Organizational forms and behaviours reflect prevailing values and beliefs in the environment that have become institutionalized. Cultural rules constitute actors, thus defining legitimate goals for them to pursue and affecting action and meaning. Having identified a situation, actors inside organizations will act according to the appropriate rules expected under such a circumstance. And it is the numerous taken-for-granted rules and scripts that exist in the wider organizational environment that shape and frame what appropriate action actually entails. In rational choice approaches to organizational action, preferences are assumed rather than investigated; they are exogenous and fixed. Instrumental approaches offer a means for investigating preferences, but these are assumed to derive from the goal of fulfilling a mandate and a problem-solving logic. NI offers a theoretical basis for understanding the sources of organizational preferences in the organizational environment. It offers the basis for conceptualising how *perceptions* of expectations shape organizational action. As such, NI offers a much more dynamic and highly contextualised conceptualisation of organizational behaviour and puts the actors involved inside the IO at the centre of any empirical investigation of motivations for action; the focus is on how actors perceive expectations. The NI approach moves beyond a focus on action that derives from the calculated self-interests of organizational actors, or from the imperatives of instrumental functionality. Instead, it emphasises that organizations seek legitimacy and not necessarily efficiency or more power, and highlights the role of cognition and obligation, not (only) self-interest.

It follows that there is a need to investigate motivations for action in decision-making from within the organization. Only by referring to the beliefs and narratives of those involved, can the analysis generate any understanding of whether organizations are motivated by goals to expand their power and influence, solve problems and fulfil their mandate, or secure legitimacy to sustain the organization. But before I develop the

detail on the methodological approach, data and analysis relevant for carrying out this empirical research in Chapter four, the next Chapter presents the specific characteristics of the European Commission and how these may be situated in the theoretical framework I have developed for exploring motivations for action.

Chapter 2 Understanding the European Commission in the framework of New Institutionalism in organizational analysis

This Chapter situates the European Commission in the theoretical framework that derives from a sociological approach to organizational analysis in New Institutionalism (NI). First, the Chapter presents the elements that make the Commission a vulnerable organization that has a fragile basis for legitimation, notably due to the diversity of the roles it is expected to fulfil, and its exposure to challenges to these role expectations in its environment. Second, I unpick the European Commission's expansionist agenda, and present how the Single Market process is constitutive of the organization's culture and how, in turn, the Commission perceives its role in the Single Market process. This analysis sets the scene for the subsequent empirical chapters, which analyse the motivations underpinning the Commission's decision-making in the post Global Financial Crisis context and the specific ESA reforms.

2.1 A fragile basis for legitimation

The European Commission shares many features common to other international organizations (IOs) such as its reliance on expertise (Littoz-Monnet 2017a), its propensity for technocratic modes of decision-making (Boswell, 2017), and as a norm setter and diffuser (Barnett and Finnemore 2004). But it also has a number of functions and powers that other IOs do not have. Accordingly, much of the literature on the European Commission distinguishes between the political and the administrative functions of the Commission or emphasises one function over another, leading to an ongoing debate over whether the organization is some sort of European government or a very strong civil service. The Commission's formal powers to initiate legislation

and policy, and therefore to formulate contents, is the focus of the research on the Commission as a European government (Dinan 2016; Smith 2004) whereas research that focuses on its formal powers in matters of programme management, administration and policy enforcer tend to view it more as a bureaucracy (Bickerton, Hodson, and Puetter 2015). Alternatively, scholars focus on the College of Commissioners and the role of the President as a means for examining the political role of the Commission (Peterson 2012; Deckarm and Selck 2015; Kassim 2013) or on the work of the Directorate-Generals¹¹ in drafting and implementing European policy and legislation (Schön-Quinlivan and Scipioni 2017; Bauer and Ege 2016). Finally, others have sought to underline the political dimension of the Commission's administrative role too, starting from a public administration perspective (Nugent and Rhinard 2019; Bauer and Becker 2014). In the following section, rather than a discussion on which of these aspects prevail, I present the different characteristics and functions of the Commission within the theoretical framework of a sociological approach to organizational analysis in New Institutionalism (NI).

As a reminder and as outlined in section 1.2.2, there are a number of studies that draw from sociological approaches in NI to investigate the perceived legitimacy pressures inside the Commission. These have concentrated on the Commission's organizational culture and institutional change in relation to the Santander Commission in the late 1990s and the Kinnock reforms (see for instance Ban 2013; Cini 2014; 2000). Another set of studies engage with the broader issue of democratic deficit in the EU decision-making and the subsequent legitimacy pressure (Schmidt 2015).

In this section, I focus less on a specific case and contend that the complexity and diversity of the Commission's environment and its fragile basis for legitimation make it particularly prone to acting according to survival and legitimacy concerns. Due to the diversity of the functions it carries out, it has to deal with diverse and often

¹¹ The College is composed of the Commissioners – each member state nominates one Commissioner – and forms the executive branch of the Commission; the Directorate-Generals and Secretariat-General form the administrative branch of the Commission; they are the permanent services of the Commission and are composed of civil-servants, seconded national experts and contractual staff.

conflicting expectations from its environment, making it particularly vulnerable to external challenges and pressures.

2.1.1 A vulnerable organization

There is relatively strong consensus in the literature on the different functions that the Commission performs. It implements community policies, upholds the Union's treaties, and fulfils administrative tasks. In these respects, the Commission can be compared to national administrations (Egeberg 2006). And yet, it also holds substantial political powers, notably the quasi-monopoly position in setting the EU's legislative agenda. For clarity purposes, I use Michelle Cini's (1996) categorisation of the different functions of the Commission. According to Cini, the Commission is an *initiator* and proposer of legislation and policy; it is an executor or *administrator*, carrying out the wishes or the mandates of the European Council and Parliament; it is a *guardian of the legal framework*, ensuring laws are implemented and enforced (a function that comprises a set of supervisory and enforcement functions); it is an *external representative* of the member states and negotiator on their behalf; it is a *mediator* between member states, the European institutions and other sectoral interests; and the Commission is the *conscience* and voice of the Union as a whole (Cini 1996, 14). The Commission has multiple functions that derive from formal powers and mandates, and from more diffuse understandings about its role.

Despite these widespread powers, the Commission has a fragile basis for legitimation. Directorate-Generals are not headed by elected representatives, nor are they tasked with implementing a democratically mandated policy programme. Furthermore, the Commission is removed from public policy debates and is at quite a distance from information about the societal impacts of its policy, especially in those areas where it has little capacity to monitor and supervise implementation and compliance with European law (Boswell 2008). This means it is not able to adjust its output according to feedback on its societal impacts. In the absence of democratic forms of legitimacy, the Commission relies on modes of legitimation that are typical of IOs: technocratic modes of governance that draw on expertise and favour rational-legal modes of decision-making that emphasise efficiency and incrementalism, and a preference for

rules-based governance. Indeed, Claudio Radaelli argues that incrementalism – “the step by step approach” – and the pivotal role of experts in supranational policy-making are two technocratic aspects at the heart of the emergence of the Commission as a regulator in the framework of the Single Market (Radaelli 1999, 8).

Furthermore, the fragile basis for legitimation is compounded by the fact that the Commission’s role in many areas is not taken-for-granted. Its role is continuously being questioned and its activities subject to demands for justification. Questioning over the role of the Commission can be highly symbolic, to do with perceptions that “depend on the mood of the times” (Nugent 1997, 15)¹². This means that the basis for questioning the legitimacy of the Commission is driven by perceptions of the Commission’s role in its environment. These are difficult to measure, and stem from beliefs about the Commission’s behaviour, and perhaps conflicting views on what it should be doing. The Commission also faces challenges regarding its administrative and managerial tasks in delivering programmes, meaning it is also faced with vulnerability in deriving legitimacy from output. For instance, the Commission faces accusations of being overly technocratic, and inclined to produce more and more detailed regulation that is either considered unnecessary or viewed with suspicion by member states. It is also berated for being too cumbersome and unable to respond and be relevant when swift action is needed. In many ways, the criticisms aimed at the Commission mirror those directed at the EU more generally. The challenges are not just rhetorical though. There is a continuous debate about the Commission’s scope of competences in decision-making, and on the distribution of powers between the Commission and other institutions. Treaty changes have gradually increased the need for the Commission to secure the European Parliament’s support (Kassim et al. 2013; Majone 2014), and have seen the European Council challenge the Commission’s political position (Bickerton, Hodson, and Puetter 2015). This has led to scholars writing about “a citadel under siege” (Kassim et al. 2013, 27) and to describe how the Commission has gradually become enmeshed in an “accountability architecture” with “more mechanisms in place than ever before” (Wille 2013). Most observers agree that

¹² The Commission has been accused of being captive of the interests of the industry and major interest groups which is less of a focus today.

the Commission evolves in a contested and even hostile environment and is treading a fine balance between autonomous action and responsiveness to its environment (Hartlapp, Metz, and Rauh 2014; Ellinas and Suleiman 2012). Thus, the Commission and its Directorate-Generals are operating in a highly unstable organizational field, and are likely to be constantly striving to enhance their legitimacy.

The environmental constraints on the Commission are common to other international organizations. But the challenges to the Commission's roles make it increasingly difficult for the Commission to carry out its functions, which compounds its vulnerability as an organisation. In the first instance, the fact that it has power of legislative initiative and policy initiative could lead to an understanding that it has more scope for pursuing its preferences and setting the policy agenda. However, the story of what the Commission does in practice is a much more complicated one. The fact that the Commission on paper has the sole right of initiative does not mean in practice that it designs policy frameworks. Many of the proposals that emanate from the Commission stem from mandates that come from the Council and the European Parliament, whether these are new or go back to the treaties.¹³ And in practice the law that is issued by the Commission tends to be law that implements the broader policy objectives initially agreed by member states. Furthermore, the Commission stands to lose considerable credibility if the proposals it puts forward do not reach a successful agreement in Parliament and Council (Ban 2013). Indeed, if the Commission proposals do not survive the legislative decision-making process, it is not only the competence of the Commission that is under question, but also its very existence as a *conscience* of European integration: making proposals that systematically fail to reach a successful outcome would not only imply that there is no political impetus for these initiatives, but also *no need* for European integration. Thus, the Commission puts a considerable effort into understanding the political feasibility of proposals. If it considers that the time is not fit for putting proposals forward, the Commission may put the idea aside

¹³ There is a degree of political entrepreneurship in the Commission to shape the mandates and policy agendas stemming from the Council in particular. The most prominent example probably remains the role of Jacques Delors in convincing a coalition of member states to introduce a legal basis for the EMU in the Single European Act is well documented (James 2012; Grant 1995; Dyson and Featherstone 1999b). More recently, see Desmond Dinan (2016) for an assessment of the political entrepreneurship of Jean-Claude Juncker's Presidency.

and wait until a more favourable environment emerges: acting like a bureaucracy, it may engage in “processes of softening-up” that can take years of effort, and in agenda-setting through linkages (Kingdon 1995, 205; Nugent and Rhinard 2016). I come back to the entrepreneurial actions of the Commission in the next section on investigating its expansionist agenda.

However, there is also instability when it carries out its role as defending the legal order. Non-implementation or inconsistent implementation of European law and rules is a serious concern for the Commission as it seeks to fulfil its watchdog function. With some exceptions, notably in competition law, the Commission has very few powers to investigate. It also possesses very few mechanisms through which it can force those in breach of the rules to comply (with the notable exceptions of issues regarding competition and agriculture). The Commission is faced with political resistance when it has sought to investigate compliance. More generally, in policy areas in which goals are defined more vaguely and in which the principle of subsidiarity prevails much more, the Commission is very often confronted with strong resistance from member states without any mechanisms to enforce implementation (Majone 2001; Bauer and Becker 2014). There is a tension between what the member states see as centralising moves by the Commission, and the role of the Commission as watchdog and enforcer of the rules of the Union. Thus Michelle Cini describes the Commission as being caught between “the rock and a hard place” (Cini 1996, 22), in particular when it comes to its role as supervisor of the implementation and application of European policy and legislation.

2.1.2 The basis for legitimization

Operating in a highly unstable environmental field has implications for the Commission’s basis for legitimization. For instance, in some areas, being seen to be drawing on expertise is particularly important (Boswell 2009, 190–200), whereas in others it is the Commission’s capacity to deliver programmes that bolsters its legitimacy. Examples may include the Trans-European Transport Network (TEN-T), a programme that funds the implementation and development of network of transport

infrastructure, or the Structural Funds and the Cohesion Fund, the financial tools set up to implement the regional policy of the European Union. In these cases, it may be expected that the Commission administers or delivers programmes efficiently, and thus it will be judged on output.

Furthermore, some functions require political work to reach decisions on matters that have political implications; and these might be in contradiction with the need to appear as a neutral and apolitical actor that does not favour one country over another or one interest group over another. And some activities are much more administrative and focused on delivery, which might be in tension with the norms of subsidiarity. Performing these different functions thus rests on different forms of legitimation. From this perspective, the Commission may, on the one hand, derive legitimacy from reflecting institutional norms about its role as a neutral actor that doesn't favour one member state over another, and expectations to be working in the common interest, i.e., through talk and decisions (Brunsson 2002). In other areas, on the other hand, it may derive its legitimacy from efficient management and delivery of programmes, i.e. by adjusting its output.

As is the case for other IOs, the Commission may be expected to reflect different or conflicting expectations in the environment, and draw legitimacy both from being output orientated and through more symbolic forms that involve espousing certain norms and expectations in the environment (Scott 1991; Brunsson 2002). Indeed, for the Commission, there is a potential conflict between its more obvious political role in the formulation of policy, actively engaged in battles over policy and policy development, sometimes mobilizing support for new policies, and its role as an apolitical administrator. These conflicting normative expectations in the Commission's environment imply that it is operating in highly unstable environmental fields, attempting to reconcile different functions and diverse or even conflicting external expectations. From an NI perspective, the organization may manage these tensions or even contradictions by decoupling. In practice, there may be evidence of the Commission acting in a different way than what it says (or communicates) it is doing; alternatively, different units within the Commission would fulfil different legitimizing functions, with some engaging more in legitimization through talk to

conform to normative expectations in the environment, and other focused on adjusting output.

To summarise, The Commission operates in a highly unstable organizational field, characterised by multiple interests of actors in its environment and a continuous debate on the Commission's scope of competence in a wide range of areas. This vulnerability is compounded by the tensions that arise in the basis for legitimacy of the different functions it performs. Given its specific features, the Commission considers itself to be judged on its talk and decisions much more than on its performance. In many areas of competence, it invests far more energy in securing support for its proposals and monitoring their implementation in national legal systems than on systematically following up or trying to adjust their societal impact. The energy that it puts into securing support for its proposals is often understood as evidence of power-maximization motivations. In the next section, I investigate the view that the Commission pursues an expansionist agenda.

2.2 Unpicking the Commission's expansionist agenda

On the one hand, the literature that covers the Commission as seeking to maximize its interests stems from rational-choice institutionalism, that views the Commission as driven by motivations to expand its powers and influences (Pollack 2003; Moravcsik 1999). On the other hand, the literature that is situated in neofunctionalist approaches to European integration views the Commission as an entrepreneur, seeking to further integration, and by extension, expand its own influence and competences (Sandholtz and Stone Sweet 1998). The focus in the academic literature on the entrepreneurial behaviour of the Commission in policy and decision-making puts the spotlight on the expansionist ambitions of the Commission based on its formal and more informal powers. The emphasis on the expansionist mandate and motivations of the European Commission has multiple sources. First of all, the mission to promote and deepen European integration is a function that is laid down in the Treaties; this is what is referred to when the Commission is spoken of "as an engine of integration" (Pollack

2003). In practice, newly nominated Commissioners take an oath to serve the Union and leave national interests behind. The idea that Commission officials are “Europe’s custodians” (Ellinas and Suleiman 2012) has led many to equate the “desire to build Europe” with increasing the Commission’s powers. Much of the scholarly work on socialisation inside the Commission has focused on whether or not officials and European civil servants are wired in favour of integration (Checkel 2005; Hooghe 2005; 2002). The Commission’s expansionist agenda also plays out in the form of narratives in public discourse and beliefs and perceptions about the powers of bureaucrats in Brussels and their technocratic ambitions to rule outside of any democratic accountability (Fuchs, Magni-Berton, and Roger 2009). Much of the agenda-setting activity of the Commission might well be interpreted as an attempt to expand gradually the scope of Union competences without alienating national governments or powerful sectoral interests. The Commission, acting as a 'purposeful opportunist' (Cram 1994), has employed a variety of techniques aimed at expanding the scope of Union competence, and the extent of its own scope for action (Nugent and Rhinard 2016).

This empirical observation of the Commission as keen to sustain or extend its competence/power might at first sight imply it conforms to theoretical assumptions about IOs as power maximising. However, we can also understand this feature as reflecting a particular organisational ideology or culture that is specific to the Commission. Nils Brunsson defines organizational cultures as “consisting of peoples’ values and beliefs about the organisation and its situation” (Brunsson 1985, 177). They provide shared understandings about the role of the organization and link these shared understandings with organizational actions; they provide scripts for action. Furthermore, different cultures or ideologies develop in different units of the organization. Different units may have different ways of perceiving the environment, and may develop different beliefs about the organization's overall mission. They may also receive different stimuli from outside; and they may be populated by different mixes of professions or shaped by different historical experiences (Barnett and Finnemore 1999, 724). I understand an organizational ideology as akin to the notion of cultural identity: it is an internalised belief system that is constituted by historical

experiences and learned behaviour inside the organization (Ban 2013) but also by norms in the environment that have become internalised (Olsen and March 2004). An organizational ideology shapes organizational action because it combines shared ideas and belief about the role of an organization, with notions of appropriate courses of action (Brunsson 2002). These beliefs are internalised and become taken-for-granted by members of the organisation, in turn shaping patterns of behaviour.

In the next section, I unpick interpretations of the Commission's expansionist agenda and explore the possibility that the expansionist agenda is a component of a strong organizational ideology (or culture), born of shared beliefs and ideas inside the organization about its role and purpose.

2.2.1 Investigating the expansionist mandate in scholarship

Power-maximization approaches have a number of implications for behaviour: bureaucratic actors share a homogenous preference to expand competences; and organizational action takes place in a persistent state of conflict over resources and influence which implies that expanding one organization's influence is necessarily at the expense of another's. The theoretical proposition that bureaucrats are motivated by budget or competence maximization was developed in American theories of public administration (Niskanen and Simard 2004) and has been applied to the study of the European Commission (Pollack 2003).

With regards the Commission's explicitly expansionist agenda, the assumption is that while advancing integration, the Commission secures its own interests by exploiting informational advantages and expertise (Cram 1994; Pollack 2003; Tömmel and Verdun 2017) Because the Commission does not have the traditional tools for imposing its agenda and policy preferences, entrepreneurs in the Commission have *learned* to respond to opportunities for action as they present themselves, and even to facilitate the emergence of these opportunities in a fragmented policy-making context. This focus on the increase of the Commission's powers as correlated with more integration is also present in literature interested in investigating the inner-workings of

the Commission and the beliefs of its officials. The Commission's power to initiate policy and legislative initiative is a starting point for much of the literature that investigates the entrepreneurial behaviour of the Commission in policy-making and agenda-setting. The expansionist preferences of the Commission are usually studied in conjunction with the degree of its agency and influence in the decision-making and policy-making process. For instance, Hooghe's work on socialisation¹⁴ inside the Commission was carried out with the aim of establishing the degree to which the Commission is an autonomous and powerful actor in European decision-making and policy-making (Hooghe 2002). More recently, Ellinas and Suleiman (2012) investigate whether the Commission is some sort of "Babel-like bureaucracy that lacks coherence, or a hotbed of supranationalism made up of European integration devotees" to accurately assess their autonomy from the political sphere (Ellinas and Suleiman 2012, 2). Miriam Hartlapp and colleagues (2014) also open the black box of the Commission to investigate conflict and power in position formation in the EU by studying the variations in preferences of DGs (Hartlapp, Metz, and Rauh 2014, 14). And Hussein Kassim and colleagues (2013) show the variety in views amongst officials in the Commission. They argue that there is perhaps no such thing as a homogenous pro-integration agenda; officials differentiate their pro-integration agenda according to specific policy areas and the perception of whether centralisation will increase efficiency or not (Kassim et al. 2013, 280).

Whilst these studies on internal preferences in the Commission are motivated by research questions that aim at uncovering the degree of influence and autonomy of the organization and its officials, they do challenge two main assumptions in the power maximising approach to organizational action. The first is cultural homogeneity and

¹⁴ By studying whether officials accept their responsibility to serve all of Europe or support policies that benefit their home country even if they are not taking direct orders, the concern of the research is to understand the extent to which staff preferences lead to more or less autonomy from the principals (member states) (Hooghe 2002). The main aim of this research is to understand attitudes towards European integration as one of the variables that can explain organizational autonomy.

the second is the staff's propensity to constantly strive for more European integration as a means to maximize the Commission's powers.

Much of the literature that opens the black box of the Commission presents a much more culturally diverse organization in which different services have developed different understandings of the role and mission of the Commission in the wider context of an agenda for European integration. The Commission is a "multi-organization" (Cram 1994), a fragmented and heterogeneous administration (Christiansen 2006) in which each DGs deals with quite a different constellation of institutional structures, actors and expectations. DGs display quite pronounced differences in terms of their ideologies, organizational cultures and policy styles (Cini 1996) as well as their ways of framing issues (Morth 2000; Rhinard 2010; Harcourt 1998). Furthermore, other studies highlight how DGs have different administrative styles to substantiate their preferences and secure legitimacy to act. Cram (1994) shows how the DG Social Affairs and Employment uses consultation for testing the ground and to establish what level of intervention the various actors are likely to accept before specifying the policy instrument to be employed (Cram, 1994, 202). Boswell (2009) shows how the DG Home made use of expertise to substantiate its preference for member state convergence through commissioning comparative analyses of immigration policy. There are distinct organizational cultures at the level of the DGs (Ban 2013). Though this diversity in culture has led to many studies on internal strife (Cram 1994; Harcourt 1998; Cini 2000; Nugent and Saurugger 2002; Hartlapp, Metz, and Rauh 2014), officials do not always view the struggle for power and influence inside the Commission as the main determinant of their actions (Kassim et al, 2013: 182). Rather, they recognise and speak of diverse cultures and working practices, usually born out of the diversity in functions and missions that are carried out by different services, and the traditions in different DGs in terms of management styles and staff profiles (McDonald 1997, 69; Ban 2013, 50; Abeles and Bellier 1996, 434).

A number of the studies that have investigated the preferences of officials inside the Commission challenge assumptions about preference homogeneity and rational choice assumptions that view actors as always driven to maximize their competences and influence. There is a difference between bureaucratic politics that are about

competition for influence between DGs, between the Commission and the member states or vis-a-vis other European institutions, and the more ideologically loaded “commitment to building Europe”. The literature highlights that different functions and working practices in DGs are shaped by, and also produce, different cultures (Ban 2013). But internal diversity does not necessarily entail conflict, something that prevails in any power-maximization approach. Though different DGs have different levels of authority and formal competences, channels of information circulation and collaboration do exist, notably with the rise in profile and role of the Secretariat-General under the Barroso Presidency (Kassim et al. 2013, 282; Peterson 2017). Moreover, though officials have a more nuanced and complex set of beliefs with regards “building Europe” and do not believe that supranational rule should be applied to everything, the literature does highlight that officials share beliefs about the role of Commission in delivering a European added value (Kassim et al. 2013; Ban 2013). This suggests a richer set of organizational goals than maximizing organizational competences, or fulfilling a mandate, to include beliefs about the added value of the Commission’s work more broadly.

One of the areas in which the expansionist agenda has been the most widely accepted in the Commission’s environment is the Single Market process. In the next section, I investigate how the Single Market process is an integral part of a strong organizational ideology that favours an expansionist agenda in the Commission and in the Directorate-General for Internal Market and Services (DG Markt).

2.2.2 Organizational ideology and the European Single Market

One of the areas in which the expansionist agenda has been the most widely accepted in the EU is the Single Market process. For the EU, the Single Market is central, its *raison d’être* (Moravcsik, 1993) and perceived as its greatest success story, thus providing a strong cultural identity. It has the benefit of providing a narrative about the added-value of integration and a method of action, incrementalism and expert based policy-making, that fits with the technocratic origins of the Commission (Radaelli 1999). The Single Market process has led to a huge expansion in the

competences and resources of the Commission and to substantial regulatory output (Majone 1996b). As a regulatory body, the Commission amounts to much more than simply a restatement of its managerial and administrative functions. In the words of Cini “the regulatory strand pervades the *ethos* of the institution” (Cini 1999, author’s emphasis). According to Carolyn Ban (2013), with the Single Market process, “normal bureaucratic politics – the struggle for power and influence between the member states and the Commission – have been elevated to a competition over the future of Europe”. The “competition for power is *ennobled*” (Ban 2013, 43), thus taking on a symbolic aspect too.

Internally, DG Markt and its staff draw a huge amount of prestige from the centrality of the project of the Single Market for the EU (McDonald, 1997; Ban, 2013). Staff see their role as central to the EU and their DG as one of the most important and privileged because they perceive themselves as having produced the Single European Market (McDonald 1997, 51–52). Historically, DG Markt has a strong identity that is based on a strong perception of its prestige within the Commission. DG Markt is the longest-standing DG to have kept the same name: it has existed since the first Commission was established¹⁵. For DG Markt, prestige derives from being associated with, and identifying with the process of the completion of the Single Market, considered one of the most successful achievements of the EU. From this perspective, the prestige is bestowed upon the DG not only because of its position inside the Commission as one of the more influential DGs, but also because of perceptions in the environment about the success of the Single Market process.

Different policy styles and identities develop over time and emerge across different DGs partly as a result of the way in which DGs have responded over time to the expectations and pressures from the environment (McDonald, 1997; Ban 2013; Cram 1994). Strong identity depends on the budget, its degree of legislative competence, the security of its ‘European vocation’ (meaning generally the political support it commands, the clarity of its competences in the Treaties, and its capacity to fight for

¹⁵ Its portfolio has varied, but there has always been a DG internal Market (Hartlapp, Metz, and Rauh 2014, 48). Under the second Delors Commission and because of the creation of the Single Market, it becomes DG internal Market and financial services, later shortened to DG Internal Market and Services, which retained this name until 2015, the end of the Barroso II Commission.

and win turf wars inside the Commission), and the intensity of its relations with other DGs. Contrary to other big and influential DGs in the Commission, DG Markt does not administer large budgets and programmes or have direct competences. Its mission is vague (Hartlapp, Metz, and Rauh 2014) and its prestige stems from more diffuse beliefs about the success of the Single Market process than as a result of budgetary resources or coercive powers over the national level. Other influential DGs for instance, include the Directorate-General for Agriculture and Rural Affairs (DG Agri) which administers one of the largest budgets and has direct competences, or the Directorate-General for Competition (DG Comp) which has direct scrutiny powers over large companies and member states on matters of competition law.

The combination of historical prestige and a vague mission that has strong symbolic value may explain the style of management in a DG in which staff are entrepreneurs, characterised by a focus on the overall mission and pushing for their policy agendas. The DG places strong emphasis on *excellence professionnelle*: substantive knowledge and skill in working through complex policy processes, rather than more administrative, classical bureaucratic profiles. It is a strong and confident DG which is reflected in its administrative style: a “competitive and macho culture” that persisted throughout the 2000s (Ban 2013, 151), and a strong resistance to change being imposed on its culture (Ban 2013, 175). DG Markt is more likely than others to be vocal and active about pursuing its policy agenda to further the Single Market process not only because it has internal prestige which provides it with power in the form of influence, and a vague mandate. But also because it may be driven by the DG’s culture and closely related to a strong organizational ideology on the benefits and successes of the European Single Market.

The chapter has focused on the analysis of the Commission’s culture from an NI perspective. The Commission is an organization that sees its strengths and persistence as contingent on the continued pace of European integration. Thus its organizational

ideology is strongly geared towards expanding the scope of competence, typically by putting forward proposals for new areas of European co-operation. In the literature that is concerned with explaining and investigating bureaucratic autonomy, the focus tends to be on viewing the expansionist agenda as a collateral of Commission entrepreneurship in a constant struggle for power and influence (rational-choice institutionalism), or as correlated with ever more integration (neofunctionalist approach). I am concerned about what it reveals in terms of motivations for action. And the Commission's expansionist agenda observed in the literature is not necessarily supportive of power-maximisation theoretical approaches to organizational action. Though the chapter does provide some insight into the characteristics of the Commission, the analysis isn't conclusive in itself and there is scope and a need to analyse data on the Commission's motivations for action, exploring all three approaches to organizational action. To carry out this empirical analysis, I will be focusing on investigating the different motivations for action post Global Financial Crisis, in particular in the decision-making process that led to the publication of the proposals to create the three ESAs in 2008-2009.

Early October 2008, in the midst of huge turmoil in global and European financial markets, the Commission president called upon eight high level independent experts to produce a report on Financial Supervision in the EU. Published at the end of February 2009, the High Level Expert Group's report became the building block for the Commission's proposal to create a European System of Financial Supervision (ESFS) in the EU; the ESFS included proposals for regulations to create three ESAs, proposals which were published in September 2009. The analysis of the motivations for action of the Commission in this decision-making process focuses on the Commission's behaviour between October 2008 and September 2009. This corresponds to the stages of the decision-making process that preceded the publication of the legislative proposals, i.e. the agenda-setting phase and the process of shaping of the contents proposals for regulation pre-formal legislative process (the Ordinary Legislative Procedure). Arguably, these are the most propitious stages for investigating whether the Commission is driven by instrumental, power-maximization or legitimacy concerns. And this investigation is supported empirically by the

indicators for observing these different motivations for action. In the next chapter, I present the specific case study and give some more detailed information about the parameters and timelines of the decision-making.

Chapter 3 Research design, Methods and Data

3.1 A research design that supports the study of actors' perceptions

The alternative approach of conceptualising organizational action drawing from NI opens the case to an analysis premised upon a constructivist ontology. The research project in this thesis aims at increasing the *understanding* of motivations for action inside the Commission by answering the following research question: *what considerations guided the European Commission's decision-making process leading to the proposal to create the three European Supervisory Authorities (ESAs) on financial activities? And what does this analysis of decision-making imply about the strength and plausibility of theories of Commission action?* To seek “understanding” means to endeavour to gain insight into the meaning actors have given to their environment; knowledge results from the interpretation of texts; insight and interpretation are meant to help understand the world but not to decide about it. To seek understanding in this sense requires to give as full an account as possible of the reasoning of actors, and to give as full an account as possible of the sources of their reasoning (Goldmann 2005, 44). This entails adopting an approach that allows for “getting inside the heads and discourse of decision-makers and see what is motivating their behaviour” (Wendt 2001, 1028). Furthermore, the appropriateness of an action cannot be established apart from or prior to the constitutive rules that define the normative space (understood as what is appropriate) of the particular organizational environment. Appropriateness derives from actors' interpretation of the constitutive rules that define the normative space.

As covered in Chapter Two, all three approaches to organizational motivations for action – instrumental, power-maximizing and legitimacy – assume actors in organizations behave in a rational way, but each has a different understanding of the types of considerations and logics driving organizational action. It follows that the analysis should focus empirically on individuals' perceptions of their role, of the organization's role and of the wider environment in which organisational action takes

place. Any meaningful understanding of actions must refer to the beliefs and desires that cause them. “Action can be understood only in light of how people concerned conceive of their situation” (Brunsson 1985, 12). From an epistemological point of view, “what matters is how the organization observes, makes sense of, and responds to its environment” (Boswell 2017, 34).

This approach can be understood as an interpretivist methodology. Interpretivism in political analysis shifts focus directly to actors’ interpretations, attitudes, beliefs and everyday behaviours (see for example Finlayson 2004; Glynos and Howarth 2008; Marsh, Hall, and Fawcett 2014; Bevir and Rhodes 2004). As underlined by Alan Finlayson, interpretivism is an approach that allows for the investigation of dynamic processes of preference formation derived from multiple forms of rationality: “if we are to understand the ways in which decisions may be reached on the grounds of valuational, affective and traditional, as well as instrumental rationalities then the approach must be capable of analysing the meanings of actions, objects and events for the actors making decisions involving them: we need some form of interpretivism” (Finlayson 2007, 547). Interpretive analysis seeks to explore beliefs in the context of actors’ lived experience. The purpose of focusing on beliefs and the meaning people give to their actions is to study them “as they appear within, and even frame, actions, practices and institutions” (Bever and Rhodes 2004, 17). From this perspective, beliefs and meaning people give to their actions constitute organizational cultures. It is not only a matter of finding out what people think and do but “through tracing these connections and critically engaging with these stories, it is also one of trying to get at why this has come to be” (Crang and Cook 2007, 8–9).

This methodological approach follows from the NI theoretical approach presented in Chapter Two and allows for investigating organizational preferences and motivations for action from the perspective of those involved in decision-making. The approach allows for understanding how those involved inside the Commission perceived pressure from their environment, who they believed was an important audience for these reforms, and how they talk about the purposes of their work. Empirically, the investigation focuses on how those involved in the Commission justify and explain their actions to better understand what motivations drove the organization’s actions. It

is also important to look at the way the organization presents itself to the environment through official communication, speeches and events, as well as how those involved talk of these events and official communication. This allows for understanding what the Commission viewed as important to communicate. And finally, it is also relevant to look at how the Commission organised the decision-making and how those involved justify those choices. This approach leaves open what substantive goals and logic of action (different rationalities for action: consequentialism and appropriateness) drive decision-making. Thus, it allows for an exploration of the relative importance of power-maximising, instrumental and legitimacy concerns.

Nevertheless, identifying these different motivations for action through empirical research is a challenge, because qualitative research engages with the messiness of what actually happens inside organizations on a day-to-day basis. Motivations for action are not necessarily mutually exclusive; they may overlap or might be stronger or weaker at different stages of the decision-making process. Different units inside an organization may pursue action for different reasons. To support the empirical work of identifying different motivations for action at each of the stages of the decision-making process, I have developed a list of indicators. They are observable characteristics that can be fairly reliably associated with, respectively, action that derives from instrumental, power-maximizing and legitimizing motivations for action.

As outlined in Chapter One (see section 1.3.4) I have developed five different indicators that aim at capturing observable characteristics of different motivations for action to do with *timing* (how swiftly an organization seeks to act), *audiences* (who the organization targets), *substance* (how the organization selects and uses input), *who is involved* (the human resources and knowledge that the organization draws on), and *steering* (how closely the organization guides deliberations). For each of these five indicators, I considered them in relation to each of the three theories of motivation: instrumental concerns, power-maximization concerns, and legitimacy concerns. These indicators were developed as a result of the initial exploration of the data collected in documents and interviews in the first year of the research project. They support the empirical analysis; they provide, quite literally, more or less strong indications of the existence of instrumental, power-maximization and legitimacy concerns underpinning

action. In doing so, they support the purpose of providing a richer and more complex picture of what motivates organizational action in decision-making.

3.2 Case study: selection and justification

The context of the autumn 2008 and early 2009, and the characteristics of the policy area of supervision combine to offer an interesting spatial-temporal context for observing different motivations for action. First of all, the context of crises, when political, institutional and social set-ups are disrupted and uncertainty prevails, is a particularly interesting spatial-temporal moment to study the motivations that drive organizational decision-making. In the political science literature, external shocks like economic crises have been framed as “windows of opportunities” where circumstances become favourable for strategic behaviour to expand influence and power (Schön-Quinlivan and Scipioni 2017), while crises are also understood as contexts in which problem-solving behaviour is likely to be evident. As such, there are strong assumptions in the literature that in contexts of crises, problem-solving motivations for action or power-maximization motivations for action (exploiting flux and agenda setting opportunities) drive behaviour (Posner 2007; Kamkhaji and Radaelli 2017; Capoccia 2016). However, these features of salience and uncertainty also provide a good empirical context for observing whether action is driven by symbolic motivations such as signalling (the need to be seen to be acting) and mirroring. In this sense, phases of crisis offer a good lens for observing the potential prevalence all three types of decision-making motives.

Secondly, the policy area of financial supervision has traditionally been characterised by relatively low salience in public debate, and is an area associated with technical complexity. Furthermore, scholarship has tended, up until the Global Financial Crisis, to focus on policy prescription (Wymeersch 2007; Moloney 2011a) and/or the role of domestic economic interests in decision-making related to European financial supervision (C. Schenk 2010; Story and Walter 1997). But in the autumn of 2008, financial supervision went from being technical to political as it gained huge salience in the public debate. Despite being considered technical, it is also a policy area in

which it is difficult to measure output clearly and swiftly, meaning “attribution” is not straight forward (Boswell 2009, 238). Furthermore, in the EU, the policy area had been “jealously guarded by capitals” (Quaglia 2010). The policy area of financial supervision, at a time of crisis, thus provides an interesting empirical site for investigating motivations for action. These features include high political salience of the policy area (Fourcade et al. 2013), complexity and paradigmatic/ideational shifts (Baker 2013; Helleiner 2011; Helleiner, Pagliari, and Zimmermann 2010) and low to medium ability to attribute output to reforms in the specific area of supervision (Boswell 2009, 238). This leads to a situation in which “regulators live a contradiction” (Black 2012b, 20): successful supervision of financial markets implies that the absence of evidence of it being unsuccessful as a crisis would only occur if it the policy is unsuccessful. Thus reforming supervision as a result of a crisis requires focusing on what is being done rather than demonstrating tangible policy outcome, as this will be difficult to attribute to a policy change. Given these characteristics, it offers a compelling case study for investigating both the more conventional approaches to understanding organizational motivations for action *and* motivations deriving from legitimacy concerns. And it offers a good case study for investigating the uses of expert knowledge in this specific context, notably because of the role and use of the High Level Expert Group.

The empirical investigation of motivations for action centres on the decision-making process that started with the Commission’s decision to establish the High Level Expert Group on financial supervision in the EU on the 8th of October 2008 up until the publication of the three proposals for regulation to create the ESAs on the 23rd of September 2009. The analysis focuses on the motivations for action inside the Commission in the build-up to the publication of the proposals. This represents just under one year of detailed sequencing between the moment at which the idea of the reforms was put on the Commission’s agenda until it published the proposals. This includes how the idea of the reforms came into being on the Commission’s agenda in the first place, the processes by which the Commission selected external and internal expert input and shaped the contents of the proposals, how it communicated about the process, who was involved, and how it steered the process.

I made the decision to start with the establishment of the High Level Expert Group, chaired by Jacques de Larosi re, because that is where interviewees and the literature on these reforms situate the starting point of the decision-making process (see 1.1). In other words, the establishment of the High Level Expert Group is the point in time at which the “idea’s time has come” (Kingdon 2014). The subject of the empirical enquiry can be divided into two stages:

1. The first stage begins with the context of autumn 2008 and the establishment of the High Level Expert Group mandated to produce a report on reforming financial supervision in the EU. This stage runs from the initial events of autumn 2008 that made the policy area of supervision politically salient, through to the publication of the report by the High Level Expert Group on 25th February 2009.
2. The second phase starts with the publication of the report by the High Level Expert Group on 25th February 2009 and runs through to the publication of the legislative proposals to create the three ESAs on the 23rd September 2009. It includes the point at which the ECOFIN Council of June 2009 officially endorsed the principles for the reforms and provided an official mandate to the Commission for the preparation of legislation (see Annex 1 for a table presenting the sequencing of the decision-making process that was analysed).

The division into these stages reflects the manner in which interviewees spoke about the reform process that created the ESAs and how it was reported at the time in press releases, news articles, speeches, and official documents such as Commission communications and Council Conclusions. The recounted story about the ESA reforms depicts the de Larosi re report’s recommendations as the basis for the decision-making process.

3.3 Methods and data

If action can be understood only in light of how the people concerned conceive of their situation, then methods must allow for getting an insight into the perspective of those people. By combining semi-structured interviews and documents, I was able to chart

individual actions and elucidate the participants' intentions, perceptions, and interpretations of the decision-making process I studied.

3.3.1 Interviews

Semi-structured interviews are loosely structured, whilst allowing for some degree of comparability. I chose this instrument because I was both looking for explanatory information about what the organisations did, but also because I wanted to understand the interviewees' perception and explanations about the ESA reforms, the context at the time, and the way the Commission decided to organize the decision-making process. Furthermore, this form of interview leaves some room for manoeuvre for respondents as they can choose to say what they think is important. I did not ask the questions using exactly the same wording or in the same order in the interviews. Instead, I followed Aberbach and Rockerman's approach of enabling "conversational flow and depth of responses" (Aberbach and Rockman 2002, 674).

I conducted 34 semi-structured interviews with officials inside the Commission, officials in the European Parliament (EP) and Members of the European Parliament (MEPs), experts from the wider Brussels network of recognised specialists on financial supervision in general, and a number of people who went on to work in the European Supervisory Authorities (ESAs). Commission officials were the most important sources of data, but other respondents with detailed knowledge of the DG Markt helped complement this perspective.

Of the 34 interviews, 17 were with Commission officials. The sample derives from an understanding that, conceptually, the Commission isn't a homogenous entity. I have included people at the administrative level (and in various positions inside DGs) and at the more political level (cabinet and Commissioner). The sample of people interviewed consisted mainly of officials who were in DG Markt at the time of the reforms (2008-2010), in the Secretariat-General, and cabinets of commissioners. I was also able to interview former Commissioner for Economic and Financial Affairs, Joaquin Almunia. Aside from one official, all were directly involved in some form in the regulatory reforms post 2008-2009, with eight of the interviewees directly involved in the ESA reforms. Finally, out of the 17 people interviewed in the Commission,

eleven had joined the European Commission by the mid-1990s, which points to a high degree of seniority.

With regards the people I interviewed outside the Commission, I aimed to gather observations these actors make of the Commission and of the context of the decision-making at the time. By interviewing people outside the Commission, longstanding experts in the Brussels-based policy-making environment, officials in think tanks and former members of the European Parliament (elected and officials), I gathered a broader understanding of how the Commission's behaviour and the reforms were perceived in Brussels. Furthermore, most of those I interviewed outside the Commission had been involved in financial market governance policy shaping and reflection prior to the Global Financial Crisis. I was able to ask them about whether there was a perceived change at the time in Brussels policy and political decision-making and trends of the debates. They also gave information about the ideas people in Brussels have of the Commission, its work, and 'gossip' about the Commission circulating within the policy community.

I drew up a list of potential interviewees first by looking at the list of names of the High Level Expert Group, in speeches and press releases at the time of the reforms, and through online searches to identify long lasting officials inside DG Markt working on financial services. I was able to extend the list of relevant names through interviews. By conducting interviews gradually over a two-year period, I was able to rely on the first interviewees to get names of people who were relevant for the research project. This was particularly helpful for identifying those involved at lower levels of management.

The response rate was very high with almost all people contacted having responded and most agreeing to an interview. Those that turned down an interview usually explained that they had not worked on the reforms and gave me the names of more relevant people that I was successful in contacting and securing interviews with. Of all the people I contacted, only three from the Commission and five from outside failed to respond to my request. I attribute the success to the fact that I conducted interviews gradually over a long period of time and to the fact that, owing to previous professional

experience in Brussels, I have knowledge of how to proceed with contacting officials. I had in mind the fact that success in getting an interview with senior staff members depends on the following aspects: status (the more senior the researcher, the higher the chances of an interview), and the project and how I come across as a person (Arksey and Knight 1999, 39). I always wrote an official letter with University of Edinburgh heading that gave a brief explanation of the project and why that person in particular was most important for the project. I also underlined that the contents of the interview would be anonymised if they should choose so. And I always sent an indicative list of questions ahead of the interview.

In-depth interviews lasted between 30 minutes and 2 hours (with most lasting about one hour). Interviews were recorded, with the consent of respondents. I transcribed all interviews that I had recorded – five interviewees preferred not to be recorded and in these cases I took extensive notes that I completed straight after the interviews with a comprehensive list of the main points I took out of the interview. I transcribed the notes into Word document for each of these unrecorded interviews and integrated these notes into the Nvivo project file. Three interviews were in French; though I transcribed these interviews in full, I have chosen to translate only the quotes that I integrated in the empirical chapters.

The advantage of conducting interviews with a period of time having elapsed is that people are more willing to talk freely. But it also means that they have the benefit of hindsight and their stories can be shaped by the events that have unfolded since. Moreover, memory is selective, so what might have been central at the time of the ESA reforms may not have been anymore when I conducted interviews. Open-ended questions, and allowing the conversation to flow is therefore important to allow the interviewee freedom in talking. I was very careful to move away from script at times to encourage the interviewee to develop his/her responses along the lines that he/she had embarked on even if the discussion appeared to be steering away from the questions.

3.3.1.1 Ethics: consent and confidentiality

The University of Edinburgh has strict ethic codes; before engaging in the interview process, I carried out the School Ethics self-audit in relation to my proposed research, “insiders’ views on the role of independent organisation in public policy definition”. No reasonably foreseeable ethical risks were identified. Nevertheless, I was aware that the interviewees might consider some information they disclose as politically sensitive, or potentially compromising to their professional roles or careers. I made sure from the very start that interviewees were aware of how I would use the data and that their contributions would be anonymised if they chose. I chose to ask for consent to use the quotes during the interview and have recordings for most. In other cases, I got confirmation of consent in follow-up emails. Some interviewees asked for a transcript and to be able to review it. I always made sure this was the case. There was no concern with the transcriptions. This method of proceeding, though lengthy, establishes a relationship of trust. I have anonymised all quotes in the empirical analysis, except for those where I had consent for giving the name of the interviewee (mostly the case for interviewees outside the Commission).

3.3.2 Documents

Documents I consulted included speeches, press releases, official documents, interviews and opinion pieces in newspapers, news articles, High Level Expert Group Reports, programmes and summaries of events. I gathered official documents online on the European Commission website and other European institution websites, including OEIL, the European legislative observatory. I collected documents published in newspapers and news journals through word searches in the online repositories for The Financial Times, Europolitic and Euractiv between 2007 and 2011.¹⁶ I searched for further news articles using a word search on Proquest. I also gathered documents from online repositories of national parliamentary auditions and

¹⁶ The selection of words included: “de Larosi re”, “Supervisory reforms”, “Lamfalussy Committees”, “European Supervisory Authorities”, “McCreevy”, “financial supervision”, “Single Rule Book”, “Crossborder Supervision”

reports¹⁷. I also used internet searches to find events programmes and reports (including videos of speeches and interventions) that were relevant to the case¹⁸. And finally, I also gathered a number of reports, policy briefs and blog posts from high profile experts on financial market reforms based in think tanks, such as Bruegel or the Centre for European Policy Studies (CEPS) in Brussels, or who have contributed in some way to reflections on reforming financial supervision at European and international level in the 1990s and 2000s (including former members of High Level Expert Groups, members of the G30, and academics). These documents I used as a means to get an insight into the general substance of the debates on financial supervision governance and how these had been evolving over time.

3.4 The process of data collection and data analysis

3.4.1 Data in relation to the indicators

Interview guide

I developed a first interview guideline informed by a literature review and by a first exploration of documents, and then by conducting four scoping interviews. I designed open-ended questions that did not simply invite a yes or no answer in order to get nuanced answers from interviewees (Rubin 2004). After conducting scoping interviews between December 2015 and March 2016, I refined the interview guideline (see Annex 3) and conducted the remainder of the interviews between September 2016 and early 2018.

Interviews were central to gathering data on the cognitive maps or belief systems inside the Commission, and to understand how these may have underpinned action. Interviews generated understanding on how the Commission made sense of the context at the agenda-setting phase, how it talked of the pressures it perceived, and for understanding the narratives and stories that the Commission used to justify and

¹⁷ Hansard for the UK, Compte rendu de l'Assemblée nationale for France and the Wissenschaftliche Dienste des Deutschen Bundestag for Germany.

¹⁸ Events included the Davos Meeting, events organized by the European Parliament and the European Commission, events organized by think tanks such as Bruegel, Eurofi, Brussels Economic Forum, CEPS events.

explain its actions in the reforms. The interview guideline was designed to gather data that would support the empirical investigation of the different approaches as gauged by the indicators. After an initial open question about the interviewee's role in the Commission that helped establish a flow of speech and a relaxed relationship, a first set of questions aimed at gathering interviewees perception on the context at the time in order to uncover any pressures perceived from the Commission environment and its understanding of *timing* in the decision-making process as well as who it interacted with (*audiences*); a second series of questions related to the process and were aimed at gathering understanding *who was involved* and how the Commission had *steered* the process to gather input. A final a set of questions was more related to the development of the *substance* of the reforms proposals, and aimed at gathering data on how the Commission made use of the input and the rationale that it used for the ESA reforms (indicator on substance).

Document analysis

The analysis of speeches by the leadership of the Commission (Commissioners and President of the Commission) enabled the investigation of the manner in which the Commission announced the decision to set up the High Level Expert Group, how it spoke about the initiative and to identify what the political leadership of the Commission deemed important to convey in its messaging about the reforms. This supports an analysis of the motivations for action in principally in relation to the indicators on *audiences* and *timing*. The analysis of official documents supported the investigation of motivations for action in relation to the indicator in *substance*.

Furthermore, in the case of the official documents produced by the Commission or for the Commission, document analysis can also contribute to telling the researcher something about an organization's culture: "we might take the view that documents tell us something about what goes on in that organization and will help us to uncover such things as its culture or ethos. According to such a view, documents are windows onto social and organizational realities" (Bryman 2015, 554). Following on from this last point, the production of documents can also tell us something about organizational practices (Freeman, 2010) and motivations; they are performative, not only substantive. The document tells the researcher something about the organization's

audience, the expected readership of the documents and thus can support the analysis in relation to the indicator on *audiences*. I also looked at event programmes: I looked at where speakers were positioned and the capacity they are speaking in as well as the meta data around events. This included information about whether the events were open or closed (on invitation only), when they are held and the location. This information yielded information on who the Commission wishes to target and what it wanted to demonstrate, once again providing data for the analysis according to the indicators on *audiences*.

Finally, though I focus the analysis of logics of action on the specific timeframe between September 2008 and September 2009, I engaged in background research about the history of financial integration in the European Union. This included work on the collaboration between the European Commission and High Level Expert Groups before the de Larosière group on matters related to financial integration. I also covered primary sources issued in relation to the implementation of the Financial Services Action Plan (FSAP) and also mapped the people and organizations that had been involved before autumn 2008. This background research provided me with a good understanding of the actors involved and the issues debated in matters of institutional reforms to do with supervision in the EU. This supported an investigation of the motivations for action at the agenda-setting phase, and enabled the analysis of continuities and discontinuities between the position inside the Commission on reforms to financial supervision in the autumn of 2008 (indicator on *timing and substance*).

I used content analysis first to identify word frequency and word searches in relation to identified themes (supervision, regulation, systemic stability), as a means to get a clear picture of the basic content of a text (Franzosi 2004). I used Nvivo to conduct “word frequency queries” and “text search queries” in texts (official documents, speeches and to a lesser extent in interviews). First, I applied content analysis to identify the changes in reference percentages in words and themes used by the Commission in official documents on financial market supervision before and after the crisis. For instance, I recorded word frequency statistics in official Commission reports and Communications before and after 2008 which highlighted whether certain terms

decreased or grew in frequency (examples of terms/themes: supervision, regulation, systemic stability or references to Single Market). This yielded preliminary threads before I conducted a more thorough analysis of the shift in narratives and framing for supervisory reforms before and after the onset of the Global Financial Crisis. This initial content analysis supported the analysis as gauged by the indicator on *substance*.

Furthermore, content analysis may also be used to analyse speech (especially interview data) as well as text (see Prior 2014). I also conducted forms of content analysis of the interview data I collected to identify frequency of references to specific themes or organizations (such as the Single Market, the European Central Bank or the G20), and recurring use of certain words or categories (such as people, and reports). For instance, I recorded the number of references in all the interviews to ad hoc independent expert group reports and recorded which were mentioned more frequently. This highlighted whether interviewees referred to reports other than the De Larosière report and if so to which more frequently. I also recorded the number of references in all interviews to specific individuals and the frequency of references to specific individuals. This analysis presented a preliminary picture of who interviewees were referring to (or not referring to) in relation to the reforms; this preliminary analysis supported the analysis in relation to the indicator on *who is involved* for instance.

As argued by Lindsay Prior, one might use content analysis as a preliminary analytical strategy to get a grip on the available data before moving into specific forms of discourse analysis, such as narrative analysis (Prior 2014, 361). Nevertheless, content analysis is not only the preliminary analysis of text before a moving to narrative analysis for instance. The counting involved in content analysis and the frequency tables also function as a kind of check on the researcher's interpretations. And the use of Nvivo software also provides a source of visual support for claims. Word frequency tables provided a visual representation of changes in percentages of references to specific words/terms in documents before and after the crisis that supported the more in depth analysis of narratives (see Chapter Five for instance).

Finally, content analysis is a method that focuses on text, the written word. But documents, and in particular official documents, have other attributes than the words,

such as the design and the layout of information. I also paid attention to where words/themes/names appear in the document – forwards, annexes, buried on the second last page or as a heading or sub-heading. Furthermore, speeches are also delivered to an audience at specific events or in specific venues. I took these elements of context into account too when analysing documents. All these aspects (elements of contexts, positionality of words/themes/names in documents) provide indications on messaging and yield a preliminary basis for an analysis as gauged through the indicator on *audiences*.

3.4.2 Data collection and process of analysis

I conducted both the data collection and analysis over a two-year period, gradually building up documents and interviews and conducting analysis of documents and interview transcriptions over time. The opportunity to be able to carry out my data collection and analysis over time meant that I was able to avoid getting overwhelmed with the amount of data, one of the challenges of qualitative research methods (Symon and Cassell 1998, 6).

As I accumulated interviews and documents and conducted an ongoing analysis, I paid attention to who interviewees were mentioning spontaneously (not only people, but other organizations and actors). I noted those that weren't mentioned too. In conjunction with an analysis of the documents, I was also able to draw a more and more detailed picture of who the Commission considered important in its environment in relation to these reforms (indicator on *who is involved*), as well as the sequencing of internal decision-making process (indicator on *steering*). I used Nvivo throughout the project; it has the merit of providing both data management tools and data analysis software. In the first year of the project, I created an Nvivo project file for the analysis of the official documents published by the European Commission on reforming financial services governance since the late 1990s until the publication of the legislative proposals for the ESAs. This initial analysis provided me with a firm ground for the interviews. In a second stage, I drew up an interview guideline going into the second year of the project.

By conducting the interviews and data collection over a longer period of time, not only did I develop a very good knowledge of the data I worked with, but I was able to constantly refine the analysis in an iterative process that combined theoretical and empirical dialogue throughout the project. As a result, I developed a set of indicators to support a more systematic empirical analysis of the different motivations for action in the decision-making process that were informed by the iteration between data collection and the refining of the theoretical approach. As I got more familiar with the data, I took the decision to develop indicators because there was a need to have a more systematic way of differentiating between the different motivations for action. For instance, using Nvivo, I create a node called "step by step approach" because I had

been picking up a lot of data on this theme in interviews, speeches and documents (interviewees often used the exact terms. But I soon realised that this could be considered power-maximising behaviour, instrumental behaviour or legitimacy too depending on how it tied in with other evidence. The indicators were developed to support a more systematic way of distilling the different motivations for action.

If you ask a civil servant about process, they will justify the outcome.

Methodologically, I was faced with the issue of post-hoc reconstruction of an event by those who were involved. I was interviewing people six to eight years after the decision-making process had taken place. The people I interviewed had the benefit of hindsight when I talked to them about the decision-making process to do with the ESA proposals. Because of the time that had elapsed between the reforms and when I was conducting interviews, many referred to the period by contextualising it with what happened subsequently. And many interviewees justified the value and outcome of the reforms even when questions were aimed at understanding the process. For instance, interviewees mentioned the reforms that took place after the 2009 -2010 reforms such as the Single Supervisory Mechanism (SSM) and the Banking Union. Interviewees create a narrative that makes sense of actions a posteriori (Weick 1995).

Furthermore, at the time I was conducting interviews for my research project, the ESA regulations were under review, which was also a point mentioned by some interviewees. Therefore, it was particularly important to conduct discourse analysis of the documents such as speeches, press releases, news interviews and presentations at events to uncover the narratives and framing of the reforms at the time. Nevertheless, I also analysed the way in which interviewees situated the reforms in the developments that took place before and after 2009, and the way they sought to justify the outcome of the reforms. I looked for similar patterns and narratives which yielded some valuable insight on how they view the role of the Commission beyond the immediate reforms, which informed evidence on the organizational culture.

Outline of the three empirical chapters

Chapter Four examines the moment when the Commission took the decision to set up the High Level Expert Group in the autumn of 2008. It investigates the process by

which the idea came to be on the Commission's agenda, who was involved in taking the decision, and the manner in which the Commission announced the decision. The chapter also investigates the type of process it decided to put in place: the High Level Expert Group and its report. Part of the analysis stretches back before the autumn 2008 events in order to investigate changes and continuities in the Commission's position.

Chapter Five focuses on the period of time starting with the publication of the High Level Expert Group Report (or de Larosière Report) on the 25th of February 2009 until the publication of the proposals for regulation creating the three European Supervisory Authorities (ESAs) on the 23rd of September 2009 (henceforth legislative proposals)¹⁹. The chapter centres on the drafting of the content of the legislative proposals, and how and what the Commission selected from the de Larosière Report. The focus is on the internal work in the Commission, how it used the de Larosière Report and its recommendations, on who was involved internally as well as how the Commission organized the work.

Chapter Six, the last of the three empirical chapters, focuses on how the Commission communicated on the reforms once the de Larosière Report was published, to investigate what the Commission deemed important to convey in its messaging about the reforms, and which audiences it was targeting. Whereas Chapter Six focuses principally on how the Commission worked internally on the proposals, Chapter Seven focuses on how the Commission disseminated information and communicated around the reforms to audiences outside of the Commission. In terms of the timeframe, the Chapter focuses mainly on the period between the publication of the High Level Expert Group Report in February 2009 to when the Council agreed a mandate to reform the institutional architecture for supervision in the EU in June 2009. It does also take into account aspects of the communication around the reforms stretching back into the autumn of 2008 and going as far as the publication of the legislative proposals at the end of September 2009.

¹⁹ The proposals for regulation also included the regulation to create the European Systemic Risk Board (ESRB) for the coordination of macro-prudential supervision.

Chapter 4 The Agenda-setting phase

Introduction

This chapter examines the moment when the Commission took the decision to set up the High Level Expert Group (or ‘expert group’) in the autumn of 2008. The purpose of the chapter is to investigate theoretical approaches to motivations for action – instrumental, power-maximization and legitimacy – by analysing the actions related to the agenda-setting phase of the decision-making process as gauged by the indicators set out in Chapter Two (1.3.4). As a reminder, instrumental approaches assume a problem-solving logic underpinning motivations for action, brought on by the exogenous shock of the Global Financial Crisis. Power-maximization approaches assume strategic behaviour to increase the Commission’s power and influence by exploiting the window of opportunity opened by the crisis. And legitimacy approaches to organizational motivations for action, which have not yet been investigated in relation to the Commission’s action post Global Financial Crisis, would assume that behaviour is driven by concerns to reflect expectations about organizational action in the Commission’s environment.

To carry out the empirical investigation in this chapter, I have selected a subset of the indicators most relevant to identifying the Commission’s motivations in relation to this phase of the decision-making process. The chapter examines how the Commission perceived *timing* in relation to the decision to set up the High Level Expert Group in the context of the escalating crisis in autumn 2008. It also analyses *who was involved* inside the Commission in relation to setting the agenda for the ESA reforms, and in setting up the expert group. The chapter also investigates how the Commission *steered* the process of setting up the expert group and guided the expert group’s work.

Regarding the indicator on *timing*, instrumental concerns would yield evidence of the Commission being concerned with pursuing an effective response, and thus allow sufficient time to develop the right decision. Power-maximization motivations would yield evidence of the Commission taking swift action to strategically position itself as

a central player in the decision-making process and exploit the opportunity to increase its influence. Legitimacy concerns would be evidenced by swift action but driven by a concern to signal appropriate action, such as responding to the pressure to be seen to be taking action in a context of crisis.

In terms of the indicator on *who is involved internally*, power-maximization concerns would be evidenced by officials with political profiles, the capacity to influence and yield informal power, and perhaps seeking to gain personal power and influence too. Instrumental concerns would imply that those involved were the most qualified and able to coordinate the right skills needed to work towards delivering an effective solution. Finally, to identify legitimacy concerns requires looking at the level of seniority and the degree of engagement of those involved: the higher the seniority of those involved in the process the more organizational credibility concerns may have played a role.

Finally, regarding the indicator on *steering*, power-maximization concerns would yield evidence of a strong formal and/or informal steering of the process and control over the expert group's work in order to shape the content to satisfy ambitions to increase influence and resources. If driven by instrumental concerns, the Commission would steer the process in such a way as to generate a response that is relevant to the problem; any interest in shaping the content would be driven by a concern to deliver a feasible and deliverable solution. Finally, legitimacy concerns would imply strong evidence of steering but with a purpose to signal that the organization is following established procedures; and steering would be driven by a concern to signal that the Commission is acting according to expected rules and perceived role expectations.

The chapter is divided into three sections. First, I focus on the indicator of timing to examine the process by which the idea came to be on the Commission's agenda and the announcement to set up the expert group. Part of the analysis stretches back before the autumn 2008 events in order to investigate changes and continuities in the Commission's position. The second section focuses on who is involved internally at the agenda-setting phase. This includes the role of the College of Commissioners and of the President of the Commission, and the relevant units inside the administrative

services that were involved. The third section focuses on the High Level Expert Group, its mandate and the profile of the experts involved with the purpose to investigate the motivations for action based on the *steering* indicator.

4.1 Context in which the decision to set up High Level Expert Group takes place

The first section of the chapter focuses on the Commission's actions in relation to the indicator of timing. To understand the perception of the context of the autumn of 2008, I start by presenting the Commission's official position prior to its decision to set up the expert group on financial supervision in the EU. I then investigate whether and how perceptions inside the Commission shifted with the events of the autumn of 2008 to contextualise the decision the Commission took to set up the expert group, before drawing conclusions in relation to the indicator in timing.

4.1.1 The Commission's official position prior to the autumn of 2008

Throughout the 2000s, a number of actors had been calling on the Commission to take action on matters of supervisory governance. Since the mid-2000s, the International Monetary Fund (IMF) had been raising concerns with the Commission, at College level²⁰, about the weaknesses of the EU framework on cross-border supervision of large banks and financial institutions in the College (Ong and Cihák 2007; Cihák and Decressin 2007; interview with J. Almunia). In 2005, national central banks, supervisory authorities and Finance ministries had signed a Memorandum of Understanding (MoU) to facilitate co-ordinated actions in cross-border crises. Faced with the mounting problems in the banking sector, the Council had updated the MoU in June 2008 (ECOFIN 2008) to include financial stability. But there was little appetite for major institutional and governance reform amongst member states to go beyond

²⁰ The College of Commissioners is composed of 28 members, including the President and Vice-Presidents. The Commissioners, one from each EU country, are the Commission's political leadership during a 5-year term. Each Commissioner is assigned responsibility for specific policy areas by the President.

this step. And despite the IMF raising concerns with the Commission leadership in its regular meetings with the College, the Commission's leadership remained cautious because of the fiscal implications and subsequent reluctance of member states (interview with J. Almunia).

In parallel to the concerns about financial stability due to the integration of large, cross-border financial institutions in the EU, another discussion inside the Commission related to the Single Market process in financial services. Leading up to 2008, there was a reflection inside (COM 727 final 2007) and outside the Commission on whether the three Lamfalussy Committees on supervision (see List of terms and glossary), created in the early 2000s, needed institutional changes and an increase in powers. Outside of the Commission, reports by Brussels-based experts on financial supervision (Lannoo 2008), experts commissioned by the European institutions, including the Commission, to monitor the work of the Lamfalussy Committees (IIMG 2007a), and opinions published by the Lamfalussy Committees themselves (CESR 2004) contributed to the debate. The Lamfalussy Committees had been created to support the delivery of the 1999 Financial Services Action Plan (FSAP) as part of the Lamfalussy process launched in 2001; they provided technical advice to the Commission for legislation in matters related to supervision and were supposed to foster supervisory convergence between National Competent Authorities (NCAs) in the framework of the Single Market process (I come back to this in more detail in Chapter Five). The Committees were national legal entities with small secretariats based in Paris, London and Frankfurt. In order to monitor the Lamfalussy process, an Inter Institutional Monitoring Group (IIMG), composed of independent experts nominated by the Commission, European Parliament and Council of the European Union, had been set up in the mid-2000s. In its final report published in October 2007, the IIMG recommended that the Lamfalussy Committees be given "an EU mandate, sufficient legal basis covering their activities and more funding" (IIMG 2007b, 5). Furthermore, the European Parliament was a strong advocate of strengthening European powers in matters of supervision, having adopted two resolutions calling for the Commission to take action in 2005 and 2006 (EP (2005/2026(INI) 2005; EP (2006/2081(INI) 2006). However, in its Communication on the review of the Lamfalussy process in November

2007, the Commission did not follow the IIMG's recommendations and disregarded the calls for EU level governance of supervision by the European Parliament. The Commission's position reflected the lack of political consensus amongst member states for any major institutional change and beefing up of powers of the Lamfalussy Committees: "The Commission considers that at this stage more ambitious institutional changes such as granting of independent rule-making powers in Level 3²¹ is not feasible given, inter alia, the lack of agreement among Member States and other stakeholders." (COM 727 final 2007, 3).

Nevertheless, in early 2008 the services inside the DG Markt held a consultation on changes needed to the Lamfalussy process and the powers of the Lamfalussy Committees (DG Markt 2008). DG Markt was the DG in charge of all legislation related to the FSAP. Chapter Five investigates the preference inside DG Markt with regards the transformation of the Lamfalussy Committees throughout the 2000s. But in terms of the official position of the Commission, the consultation did not lead to any proposals for changes in mandate or an increase in powers or budget for the Lamfalussy Committees. Indeed, the Commissioner for Internal Market at the time, the Irishman Charlie McCreevy, was clear that the Commission was not in favour of any substantial changes. In a speech to the Committee for Economic and Monetary Affairs (ECON Committee) in the European Parliament (EP) on the 10th of September 2008, McCreevy presented the results of the consultation that his services had led on the Lamfalussy Committees. He was speaking to a very hostile audience. The ECON Committee had persistently been calling on the Commission for ambitious institutional reforms to the governance of financial supervision in the EU since the mid-2000s, including more stringent regulation and a transfer of powers to the EU level (see section 4.2 in this chapter). Nevertheless, in his intervention, he explained that the Commission took the industry's view that no "radical changes to the current EU

²¹ At the first level, the European Parliament and Council of the European Union adopt a piece of legislation, establishing the core values of a law and building guidelines on its implementation. The law then progresses to the second level, where the three Lamfalussy Committees and regulators advise on technical details, before the legislation goes back to a vote in front of member-state representatives. At the third level, National Competent Authorities work inside the secretariats of the Lamfalussy Committees on soft measures for supervisory convergence.

supervisory architecture” were needed and that he did not favour legally binding powers for the Lamfalussy Committees:

At this stage, the measures agreed by the Committees should in our view remain legally non-binding. This approach was welcomed by the vast majority of stakeholders and Member States in the public consultation which my Services completed in July. Only a few representatives of the industry took the view that more radical changes to the current EU supervisory architecture could be needed. (McCreevy, 10 September 2008)

The next day, at the Eurofi Conference in front of industry and practitioners, Commissioner McCreevy clearly states his view that the conditions were not there for EU level supervision for large financial institutions:

We're aware that if colleges develop diverging approaches, we run the risk of further fragmentation of the internal market, and even within a Member State itself. [...] Some stakeholders consider that there would be merit in proposing further institutional changes. I have advocated an evolution rather than a revolutionary approach. We also have to be pragmatic about what is achievable now. It is crucial we make progress on strengthening our supervisory co-operation. Maybe at some point in time in the future we will have some form of EU level supervision for the largest financial institutions. But I don't believe we have the necessary conditions today for such a fundamental change. (McCreevy, 11 September 2008).

Until September 2008, the Commission's official position on reforms to the European governance of supervision, whether in terms of cross-border supervision or supervisory convergence of rules and practices in the framework of the Single Market process, seemed to reflect the views of the industry and the member states in favour of the status quo. Concerns that were raised by the European Parliament and other actors, notably experts in the wider policy community, such as the IMF or experts in the IIMG, appeared to be less of a concern.

First, this is consistent with the literature on member states preferences regarding financial supervision: the area of financial services integration, and supervision in particular, had been characterised mainly by member state resistance and a consensus in favour of principle based and minimum rules (Quaglia 2013; Story and Walter 1997; Kudrna 2016; Mügge 2014). But it is also consistent with the way scholars, pundits and people I interviewed in Brussels viewed President Barroso's style of Presidency: he was reputed for being a President that followed the status quo, and was conciliatory with the larger member states (D Hodson 2013; Peterson 1995; Kassim 2013). Furthermore, the Commissioner for internal Market from 2005 to 2010 and former Minister for Finance of Ireland, Charlie McCreevy, was an outspoken advocate of a light-touch approach to regulation in the area of financial services. He was notorious for holding back on any initiative to increase formal powers at European level in these matters. I come back to the leadership style of the President of the Commission and reputation of the Commissioner for Internal Market in the President in the section 4.2 of this chapter. First, however, I explore how the events of the autumn of 2008 shaped the perception inside the Commission on the ongoing discussions about the governance framework of supervision in the European Union.

4.1.2 The decision to set up a High Level Expert Group: internal perception of the context

Officials who were in the College and in the administration at the time describe a change in perceptions inside the Commission in the autumn of 2008. The Commissioner for Economic and Monetary Affairs at the time, the Spaniard Joaquin Almunia, pointed out: “[there was an] awareness at the time of the problems sitting in European banks, but they were individual problems. So until September 2008, until Lehman Brothers, there was a feeling that we had a crisis, but not a systemic crisis.” (Interview with J. Almunia). A Commission official explains the shift in perception that happened in the Commission referring to Lehman but pinpointing the Irish bailout as the turning point internally:

Of course people had a sense that something was happening, but it wasn't until Lehman went down in September of 2008 that people really grasped the magnitude of change. And that set off quite a bit of panic because there were a lot of concerns about the banks and the solvency of banks and so on. Although I have to say, for a long time this was seen as an American problem and people hoped that this would stay in America. From what I recall, even inside the house here there was a bit of that. And it really only came home when first Ireland had a problem. (Interview Commission 1)

Up until September 2008, there was a perception inside the Commission and in the member states that the crisis was a US one, and that there was no need to address the supervision issues in the EU in any further depth. In July 2008, Commissioner McCreevy explained at a think tank meeting in Brussels that “On the positive side, our fundamentals in Europe remain sound relatively speaking, compared to the US. We are less exposed to risks stemming from declining house prices” (McCreevy, 3 July 2008). To a certain extent, the Bank Lending Survey published by the European Central Bank (ECB) in July 2008, provided support for the Commissioner's position, having concluded that for most euro area banks capital had not been affected by the financial market turmoil (FT 2008a). On the 26th of September, even after Lehman Brothers went bankrupt on the 15th of September 2008, Peer Steinbrück, then Minister

for financial and economic affairs in Germany, commented in the New York Times: “The financial crisis is above all an American problem. The other G7 financial ministers in continental Europe share this opinion.” (New York Times, 26 September 2008).

However, two days after Steinbrück’s comments and two weeks after the bankruptcy of Lehman Brothers, the EU was hit by a series of events over a few days that confounded the idea that the EU’s banking system and supervisory governance set-up were strong enough to withstand the systemic dimension of the unravelling banking and liquidity crises. What followed were two weeks during which everybody involved remembers the lack of sleep and emergencies as the entire European banking system came close to collapsing. On the 28th of September, Fortis was partially nationalised with Belgium, Luxemburg and the Netherlands injecting 11.6 billion euros to avoid the bankruptcy of what had been one of the top 20 largest financial services business in the world by revenue. Over the next three days, the same countries stepped in to bailout Dexia. Both cases instantly rendered the MoU of June 2008 pointless (see 4.1.1), exposing the “embryonic cross-border supervisory frameworks” (Kudrna 2012) in the most dramatic fashion with finance ministers thrashing out bailout packages worth billions of euros, sometimes overnight. In the night of 29th September, the Irish government made an unprecedented move and unilaterally decided to underwrite the entire Irish banking system. With Anglo Irish Bank and Irish Nationwide Building Society on the brink of collapse, and liquidity in the wider Irish banking system drying up, the government put in place a “guarantee arrangement” that covered almost the entirety of the Irish banking sector’s balance sheet “turning the rules of capitalism on their head” (Duggan, 2018). It provoked substantial movements of capital in relation to the Irish blanket guarantee, exacerbating liquidity issues elsewhere. And it brought to the fore the political problem of collaboration amongst European governments in the bailout and management of the unfolding crisis in the most dramatic way. On the Saturday 4th of October, President Sarkozy of France convened an extraordinary meeting in Paris that gathered the heads of government of Italy, Germany, the UK and Luxemburg (because the latter was chair of the Eurogroup at the time), the President of the ECB and the President of the European Commission. Though the leaders present

“sharply criticised the American roots of the problem”, they also pledged that “Europe should exist and respond with one voice” and called for a coordinated response on reforming supervision (New York Times, 4 Oct 2008). The problems and emergencies continued to unravel over the next few days as the Icelandic banking system collapsed on the 7-8th of October and the UK government bailed out RBS, Lloyds and HBOS on the 8th of October.

The Commission was directly involved in the extraordinary events of late September and early October 2008, notably because of the Irish guarantee. The Commissioner for Economic and Financial Affairs, Joaquin Almunia, remembers “the early morning calls from Frankfurt, from London” and the huge concern because of the “movements of money from London to Dublin because of the blanket guarantee” on the morning of the 30th of September. An official inside the Commission describes the atmosphere as one in which there was a huge amount of concern:

People were asking some very very unorthodox and fundamental questions because there was such a concern that the whole banking system was going to go belly up and the whole economy was just going to crash. So there was a lot of excitement, a lot of nervousness at that time inside the house here but also I remember being told that in some of these Council meetings [...] So that was the context, really a huge amount of concern about whether the whole banking system was going to survive. (Interview Commission 1)

A wide range of problems related to supervision of the banks and financial system, had come to the forefront. These included, amongst others, the weaknesses of the Home-Host principle in supervisory governance and deposit guarantee schemes, the wholly inadequate prudential ratios, the huge shortfalls in crisis management mechanisms, and the consequences of no crisis prevention and crisis warning mechanisms.

It is in this very specific political context of great turmoil and emergency that the President of the Commission, Jose Manuel Barroso, announced on the 8th of October

in a speech to the European Parliament (EP), that he was setting up a High Level Expert Group to reflect on reforms to financial supervision in the EU:

We need to launch a reflection process in order to build common ground. That is why I will be setting up a High Level Group to look at the right architecture to ensure financial markets suited to the realities of the Single Market, and that supervisors can work together to meet the challenge of cross-border banks. (Barroso, 8 Oct 2008).

This suggests that the Commission's leadership acted swiftly to put in place the means to provide answers to the substantial challenges highlighted by the crisis, and the need for more coordination in matters of supervision. This points to instrumental motivations in relation to the indicator on timing: the evidence suggests that the Commission acted swiftly because the crisis had highlighted a substantial number of problems in the governance framework for of financial market supervision in the EU. Evidence of instrumental motivations underpinning the Commission's decision to set up the High Level Expert Group in response to the Global Financial Crisis and the problems it had highlighted in the EU, is consistent with the numerous studies on the ESA reforms (see section 1.1.2, Chapter 1).

Moreover, the words of the President of the European Commission also suggest that the Commission was acting to build common ground to solve complex coordination issues. This behaviour would indicate, *prima facie*, instrumental concerns to facilitate the emergence of the best possible solution. Exactly one month after dismissing "radical reforms" in a speech to the ECON Committee (McCreevy, 10 September 2008), Commissioner McCreevy acknowledged the need for a serious reflection and also signalled that the Commission was taking on board the ECON Committee's suggestion by setting up the High Level Expert Group:

We have now to think about the longer term vision of European supervision. Current events are showing its limitations today. The ECB's handling of the crisis has been exemplary. We now have to reflect seriously on how our supervisory arrangements for the cross border financial institutions are constructed. As President Barroso

announced earlier we want to establish a High Level group to work through the various options and make recommendations on how we should proceed. This takes up the suggestion in your report of a High Level Group to tackle European supervisory arrangements. (McCreevy, 8 October 2008)

In the last sentence of this quote, McCreevy was referring to the European Parliament's latest Own Initiative Report (OIR) on European supervision of financial markets that reiterates previous calls on the Commission to deal with supervision at EU level by setting up "a group of wise persons by autumn 2008, bringing together different stakeholders, such as supervisors, regulators and industry representatives, and elaborating a longer term supervisory vision..." (Van Den Burg 2008). McCreevy's words suggest that the Commission was keen to underline that it had taken on board the European Parliament's recommendation.

Furthermore, a week after President Barroso announced that he will be setting up a High Level Expert Group, the member states welcomed the initiative in the European Council Conclusions:

The European Council stresses the need to strengthen the supervision of the European financial sector, particularly cross-border groups, and to implement urgently the Ecofin Council's roadmap, with a view to improving the coordination of supervision at European level. In this context the European Council welcomes the setting up of a high-level group by the Commission. To begin with, the European Council invites national supervisors to meet at least once a month, to exchange information (CONCL (14368/08) 2008, 3).

It appears that the Commission was responding to demands both from the EP and the Council for enabling a coordinated response, and to present a solution to the supervisory governance problems highlighted by the crisis. By setting up the High Level Expert Group, the Commission appears to have acted as a facilitator to enable discussions, a point that was welcomed by the member states and had been a longstanding request from the EP. Once again, instrumental concerns seem to have

played a substantial role in relation to the indicator on timing: the Commission acted swiftly to set up the High Level Expert Group, and thereby launched a process to provide solutions in matters of supervision of banks and financial markets in the EU.

Nevertheless, there is the possibility that the Commission was also responding to perceived pressures to be seen to be taking action when it decided to set up the High Level Expert Group. First, it is noteworthy that the EP had been requesting that the Commission take action to reinforce the governance of supervision at EU level prior to the events of autumn 2008 and the onset of the Global Financial Crisis. Though the Commission had not taken on board these previous calls from the EP to set up such an advisory group of experts (EP (2005/2026(INI) 2005; EP (2008/2148(INI) 2008), the pressure to be seen to be taking action due to the crisis may have prompted action.

Indeed, the decision to set up the High Level Expert Group may also stem from a certain amount of posturing in a context in which financial supervision was politically salient and politicians were expected to be seen to be taking action. Notwithstanding the fact that a crisis is a moment of great flux, that puts the spotlight on the huge shortfalls and structural problems that require answers, such a crisis is a moment in which decision-makers need to be seen to doing something to respond to issues that have been framed as requiring action. As pointed out by Commissioner McCreevy in his speech on the 8th of October 2008 to the ECON Committee, “In times of crises politicians need to be seen to do things so as to reassure the public. Things are no different here in Brussels. Except that our margin for manoeuvre is more limited. [...] the purse strings are controlled by treasuries and central bankers.” (McCreevy, 8 Oct 2008). The Commission had taken emergency actions in the autumn 2008. It was directly involved in the emergency measures of October 2008 in relation to the state aid rules under competition law, when it was dealing with the Irish government blanket guarantee on its banks. According to Joaquin Almunia, in the absence of any formal resolution mechanism, the Commission’s use of the state aid rules became the *de facto* resolution mechanism. The Commission was also engaged directly in the regulatory changes to the accounting rules and standards and capital requirement ratios, with the President personally calling on heads of states to sign off on the changes at the European Council meeting end of October 2008 (see 4.2 in this Chapter).

However, the decision to set up a High Level Expert Group was something that could be publicised, reaching a broader audience beyond the technical audience in the know about state aid rules, capital requirements and accounting standards. From this perspective, posturing may also have underpinned the Commission's decision to set up the High Level Expert group. Indeed, the exercise of using High Level Expert Groups can be quite lengthy and is usually used to provide mid-term recommendations that may or may not be put in place (see section 4.3 in this Chapter). The Commission took the decision to use such an exercise precisely at a point in time when the whole system appeared to be on the brink of collapsing and swift and immediate action was needed to support the immediate functioning of financial markets. For this reason, the decision to put in place a lengthy decision-making process that aimed more at generating mid-term regulatory reforms, rather than swift action to shore up the system, may point to signalling purposes, more in line with legitimacy concerns.

This interpretation appears to be borne out by the language and the terms of reference in the mandate drawn up for the High Level Expert Group by the Commission at the end of October 2008. The wording was cautious, and the mandate remained rather vague. The Group was “requested to make proposals to strengthen European supervisory arrangements covering all financial sectors, with the objective to establish a more efficient, integrated and sustainable European system of supervision” and to “examine the allocation of tasks and responsibilities between the national and European levels.” (De Larosière 2009, 69). Furthermore, the mandate remained rather vague on the process for deliberation and when the group was requested to produce a report: “The Group will conduct hearings and organize a consultation as appropriate” and “present a report to the European Commission in view of the Council of Spring 2009.” (De Larosière 2009, 69). The mandate echoed the cautious and vague language in the Council Conclusions: the aim was to “strengthen the supervision of the financial sector” and “improve the coordination of supervision” (CONCL (14368/08) 2008). A vague mandate may have been a reflection of a need to keep an open mind, given the scale of the problems and the legacy of a complex institutional and political past in matters of supervision (Quaglia 2013; Story and Walter 1997), which would suggest instrumental concerns. But in relation to timing, swift action with little concern about

the process of knowledge production would suggest signalling behaviour, and point to action driven by legitimacy concerns, rather than instrumental concerns to deliver a solution to the problem. A more in depth investigation of who was involved in the High Level Expert Group, and how closely the Commission steered the knowledge production process should provide more understanding on whether the Commission showed a concern for getting the right solution to the problem, or whether it showed limited concern about the process. I come back to this in the final section of this chapter (section 4.3).

First, however, there is a need to investigate in more detail the apparent shift in the Commission's official position through the leadership's decision to set up the High Level Expert Group. In taking the decision to set up the expert group, it is important to consider whether the leadership was fulfilling its expected role in a context in which the leadership was required to step up, given its perceptions of the magnitude of the problems and the constraints the Commission was operating under (limited options for action); or whether it was perceiving pressure to be seen to be taking action as a result of credibility threats to the organization itself. Finally, there may also be the possibility that it perceived the situation as one in which it could strategically position the organization as a central player in designing the future of supervisory governance in the EU, which would point to power-maximization motivations. In the next section, I investigate the role of the College, in particular of the relevant Commissioners and of the President of the Commission, with the aim of getting a better insight into how the leadership perceived the need to act (which relates to indicator on *who is involved internally*).

4.2 Announcing and explaining the decision: who was involved

The Commission took a rather precautionary approach to reforms to do with supervising financial markets and banks before the events of the autumn of 2008. But as the crisis became systemic, and problems escalated in the banks and banking system across the EU, the President of the European Commission (henceforth President or Barroso) announced his decision to call upon a High Level Expert Group to “reflect

on financial supervision in the EU” (Barroso 2008a). From the outset, the Commission’s leadership put this decision forward as one of the measures taken to showcase the Commission’s determination to step up and find solutions to the problems relating to fragmented supervision in the EU that were highlighted by the Global Financial Crisis. Barroso announced the decision to launch a reform process in a speech to the European Parliament and framed the decision to set up the expert group as a reflection in the framework of the Single Market process:

Last point of a more systemic nature: we also need to have a further look at EU level supervision in the single financial market. [...] So we need to launch a reflection process in order to build common ground. That is why I will be setting up a High Level Group to look at the right architecture to ensure financial markets suited to the realities of the single market, and that supervisors can work together to meet the challenge of cross-border banks. (Barroso 2008a)

It was a speech that was serious about listing practical actions and measures taken by the Commission, in which he explained that “addressing the crisis is an important test” and that “this is not the time nor the place for political posturing and grandstanding, for announcing grand initiatives that have no chance of being followed through”. He used verbs that highlighted leadership strength (convinced, determined, urge, demonstrate) with the word “need” being the most frequently used word (weighted percentage)²².

Barroso appeared to have been aware that the circumstances of autumn 2008 required a change of approach and more proactive leadership in matters of regulation and supervision of financial services. This tends to substantiate instrumental concerns. When the European banking system came close to collapsing in late September and early October 2008, Barroso got more involved over and above the Commissioner in charge of regulation to do with issues related to the Single Market. According to an official in DG Markt, the President’s office had been putting pressure on McCreevy to

²² The word “need” appears 16 times in a speech that is three pages long. The next most frequent words are ‘member(s)’ and ‘states’ (15 counts), Commission, Financial and European (13 counts) and ‘propose/proposal(s)’ (12 counts)

be more pro-active since the early autumn, after the interbank problems in the summer of 2008:

You have to remember at the time our Commissioner was Charlie McCreevy who was a very liberal guy, non-interventionist – I think it is not a secret – his attitude was basically to demure as long as he possibly could. He was not the kind of guy who was into regulating. And he just demurred and demurred until from what I think... he got a dressing down from the department of President Barroso and told him that “we’ve got to do something, we can’t just let this continue like this”. (Interview Commission 2)

Another two officials I interviewed described Barroso’s forceful action on accounting standards in the autumn of 2008 in broadly the same terms. Barroso is described as “literally going around the table, making heads of states and governments sign” at the European Councils. This more forceful leadership may be a result of instrumental concerns and a perception of the need to get an agreement on accounting standards very swiftly to deliver the required solutions. In the case of accounting standards reform, it was the single most urgent priority set by the first ever meeting of the G20 in November 2008. The Washington Declaration singled it out as the “immediate action” to be taken ahead of the next G20 meeting by end of March 2009 (G20 2008).

In relation to the High Level Expert Group more specifically, an official from DG Markt explained that Barroso decided to bypass the Commissioner for Internal Market because “they [President’s cabinet] preferred to avoid interferences from Charlie McCreevy and his cabinet who may have had different views” (Interview Commission 3). Once again, this suggests an awareness of the need to show leadership and take action on matters of supervisory reforms given the circumstances. Strong leadership at the agenda-setting phase is consistent with instrumental accounts that derive from neofunctionalist approaches to European integration, in which leadership is a determinant of the Commission’s ability to exploit spillovers to push for further integration (Dyson and Featherstone 1999a; Verdun 1999b). But Barroso’s stronger engagement, in particular in relation to over-ruling the Commissioner for Internal

Market, also suggests that the leadership may have had concerns about the credibility of the Commission.

Indeed, it is worth noting that the President used a speech to the plenary of the EP to make the announcement that he was setting up a High Level Expert Group on the 8th of October 2008. This may point to instrumental concerns to secure the EP's buy in and support. But it is also likely that the Commission leadership felt under pressure to appease the Parliament and set up the High Level Expert Group as a consequence. As previously mentioned, the EP had been calling on the Commission to take action in matters of supervision governance since the mid-2000s (see resolutions (2005/2026(INI) 2005; (2006/2081(INI) 2006). In the 2006 and 2008 resolution, the EP had called for setting up a High Level Expert Group to reflect on the future of supervision. The latest of the resolutions adopted by the EP was in early October 2008 and was based on an own initiative report by Members of the European Parliament (MEPs) on the ECON Committee, the socialist Ieke van den Burg and the liberal Daniel Daianu. Commissioner McCreevy directly referred to the Commission having taken on board the EP's recommendations by setting up the expert group in his ECON speech on the 8th of October):

Turning now to your report on the 'Lamfalussy follow-up and future structure of supervision' I would like to congratulate the Economic and Monetary Affairs Committee, in particular Ms van den Burg and Mr Daianu, for their excellent work in producing such a thought-provoking and wide-ranging report [...] It is heartening to see that so many of the issues you highlight are those that the Commission is also prioritising. (McCreevy 2008c)

This may show a concern for signalling to the EP that the commission was listening to its calls.

However, the relationship between McCreevy and the ECON Committee was notoriously fraught, and there may well have been a touch of irony in McCreevy's words. Since 2005, a number of socialist MEPs in the ECON Committee had turned their encounters with McCreevy into political confrontations over state intervention in

relation to financial market governance (interview with Pervenche Beres, Interviewee A, and interviewee B). In 2007-2008, some of these confrontations were widely reported in the press at European and national level, in particular the personal battles between the socialist MEP and former Prime Minister of Denmark, Poul Nyrup Rasmussen, and McCreevy, over the specific issue of hedge funds and private equity fund regulation (some examples include: Rasmussen 2008; The Telegraph 2007; FT 2008; The Times 2007). One person who worked closely with the College inside the Commission explained that “the European Parliament was very active [before the crisis]...the Parliament did very good work on this [supervisory issues]. But Charlie McCreevy was completely out of this. He was anti-regulation, self-regulation, no interest at all in it.” (Interviewee Commission 4). Having been a particularly strong advocate of light-touch regulation as finance minister in Ireland, and then as Commissioner for Internal Market, McCreevy’s reputation may have presented some credibility concerns for the Commission’s leadership in the context of the autumn of 2008.

From this perspective, it may be significant that the President of the Commission personally took charge of the decision to set up the High Level Expert Group and to inform the EP. Barroso clearly stated in his speech that he was the one that had made the decision – “I will be setting up...”. He did not refer to the Commissioners that may have had a stake in the discussions, notably the Commissioner for internal Market, Charlie McCreevy, even though the reflection was to be framed by the Single Market process. Though this does not signal legitimacy per se, it does indicate that there was a concern about credibility inside the organization. This opens the possibility that signalling may have played an important role in the decision, not just instrumental concerns.

The Commission, and in particular the President, appears to have been under pressure from the Parliament to be seen to be taking action that contrasted with the previous status quo on self-regulation for credibility reasons (Posner 2010; ALTER-EU 2009). Later in the autumn of 2008 the EP increased its pressure on the Commission leadership. In December 2008, a letter co-signed by two socialist MEPs, Martin Schulz and Poul Nyrup Rasmussen, and addressed directly to Barroso, denounced

McCreevy's – and by extension the Commission's handling of the response to the crisis, and failure to act upon the requests of member states and of the EP in addressing the financial crisis. The letter was publicised in the national press too (see for instance Irish Examiner 2008; The Guardian 2008). In the plenary debate on the 18th of December 2008, at which Barroso was present and responded to MEPs, the Spanish MEP from the centre right group European People's Party (EPP) and Vice Chairman of the ECON Committee, José Manuel García-Margallo y Marfil, reminded the President of the lack of initiative taken by the Commission and in particular McCreevy:

I will end with a warning. Parliament is being asked to cooperate with the Commission's plan: we always have done. If the Commission had heeded the warnings that we have been giving since 1999 in repeated reports ignored by the Commission and Mr McCreevy in particular, things would now be very different. (García-Margallo y Marfil 2008).

The warning issued by García-Margallo y Marfil referred to the powers of the EP to reject the appointment of the next Commission. There were European elections in 2009, and Barroso was running for a second term. Barroso, whose style of Presidency was very conciliatory towards member states, in particular the larger ones – a point emphasised in interviews with Brussels based experts and in the literature (Dinan 2016; Peterson 2017; Kassim 2013), may have been personally under pressure to show his capacity to take leadership, not just as President of the Commission.

Furthermore, during the exchange of views referred to above, between the Commission College and the EP plenary in December 2009, the Swedish Commissioner Margot Wallström, Vice President of Commission at the time and in charge of Institutional Relations and Communication Strategy, stepped in to speak in defence of McCreevy and the Commission:

I would first of all say that there has been nothing like 'business as usual' since we entered this crisis. By my side you see my colleague responsible also for much of the response [she was referring to

Joaquin Almunia, Commissioner for Economic and Financial Affairs], as well as Mr McCreevy behind us here, and they will know better than anyone else that we have had to work on this from the very first moment. I would also say the Commission has responded to the financial crisis with unusual speed. (Wallström 2008)

Commissioner McCreevy was present but did not speak. Underlining the “unusual speed” of the Commission’s responses, and deflecting accusations of “business as usual” points to a broader concern about the credibility of the organization, beyond the inter-institutional turf battles. Once again, this could suggest legitimacy concerns in the decision to set up the High Level Expert Group. In a context in which the Commission was under pressure to take strong action, and in which politicians of all factions were calling to “moralise capitalism” (Mauger 2009), McCreevy’s past reluctance on regulatory and supervisory matters may have become somewhat of a liability for the Commission’s credibility. An official from the Commission describes the pressure that the Parliament was putting on the Commission and what this meant for Barroso’s leadership:

There were a couple of specific files where the commissioner [McCreevy] was quite reluctant for whatever reason and where actually at the end of the day, the files were written in collusion, quiet collusion between DG Fisma²³, the Secretariat-General and the President’s cabinet. So this was absolutely a very strong presidential direction...And of course we were under a hell of a lot of pressure from Parliament politically, we had a big resolution early 2009 with a great long list of things. The Commission is politically responsible to the Parliament, last year of a mandate, heading up to elections, people start to talk about votes of no confidence... so all of that was playing. So this was a very strong, very strong impetus from

²³ The interviewee is referring to DG Markt as the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG Fisma), the name it took after the 2015 new Commission was put in place.

President Barroso who himself of course at that point was also looking for a repeat of his mandate. (Interviewee Commission 5)

This quotation highlights how the staff and President's office acted under pressure from the Parliament. The person also underlines the step-up in leadership of the President, because of perceptions of credibility for the Commission, and for personal reasons too, driven more by his concern for re-election. These concerns suggest that a richer set of goals than instrumental concerns may have underpinned the Commission's action, including power-maximization and legitimacy concerns.

There is, however, another set of actors in the decision to set up the High Level Expert Group and the process by which Jacques de Larosière became chair, as is suggested in the above quotation: the services in DG Markt. As an official working inside DG Markt at the time put it,

It was felt that more needed to be done especially in the president's cabinet at the time – the cabinet of Mr. Barroso. And that was shared in the DG – Internal market at the time – and the idea of some high level group that could propose more radical reforms and give legitimacy to such reforms was developed. And that is how the creation of the group came about. It was a little bit ... the President's cabinet and the leadership of DG Markt turned to a number of senior people to check their availability. (Interview Commission 3)

Officials inside DG Markt were more straightforward in explaining that it was officials in their services that were behind the idea and were instrumental in the choice of the chair, often citing the name of the Deputy Director-General of DG Markt at the time, David Wright. He is described as having “played a major role to kick start the group [and] probably one of the people at the origin of the idea” (Interview Commission 3). Even outside the Commission, Brussels based experts and politicians spoke of his role; for instance, the ECON Chair at the time also stated that he was the one who “got de Larosière and suggested him to Barroso” (interview with Pervenche Beres). Going beyond the Commissioner for internal market straight to the President suggests strong tactical behaviour and political acumen and also reveals an understanding of timing

that points to power-maximization motivations: politicians needed something off the shelf to show they were acting, and officials inside DG Markt put their services in a position to be influential in the debate or to enhance their internal prestige. This strategic positioning is somewhat substantiated by another official from DG Markt who worked closely on the de Larosière report:

You have a major crisis and politicians need to find something to do and they need to find what can be sold as an answer to the crisis and the reduction of the risks that the crisis materially happens again. [...] politicians needed something off the shelf, you know, they need to be able to show that they were acting, so they were very happy to be delivered a nice report. (Interview Commission 3)

There is a need to investigate in more depth how those inside the services, and in particular DG Markt, talked of the expert group, and whether they were involved in steering the process of knowledge production.

The leadership, and in particular the Commission President, appears to have been reacting to circumstances that required it to “do something”. In relation to the areas that fell under the portfolio of the Commissioner for the Internal Market, there was a certain amount of pressure on the leadership, and in particular on the President, to be much more pro-active than it had been before the autumn of 2008. Beyond the need to provide an answer given the context, the President’s decision to set up the expert group appears to be a response to a certain amount of concern for the organization’s credibility. Though this does not provide evidence of legitimacy concerns per se, it does suggest that a certain amount of posturing may have been involved in his decision to set up the expert group when he did. Furthermore, evidence of the strategic involvement of some officials inside DG Markt suggests that power-maximization motivations may have played a role at the level of the DG more specifically in relation to the decision to set up the High Level Expert Group. The next section investigates further the Commission’s motivations in setting it up, by analysing who was involved

in the High Level Expert Group, and how the Commission's steered the process of knowledge production.

4.3 Investigating the Commission's use of High Level Expert Groups

4.3.1 Profile and selection of the group members

There is little official information and documentation on the process by which the members of the High Level Expert Group were selected. In the autumn of 2008, Claude Turmes, an MEP from the Green Party, put forward a written question to the Commission on the selection process of the group members. Commissioner McCreevy only responded on behalf of the Commission to this written question in July 2009, months after the report was published. In the written answer, the Commissioner explained:

The members of the High Level Group were selected by the Cabinet of the President of the Commission in agreement with the Chairman of the High Level Group, Mr Jacques de Larosière. Key criteria for selecting the respective persons were their technical expertise on regulatory and supervisory matters and their experience and knowledge of the financial services sector, as well as the need to ensure a balanced geographical distribution. (European Commission 2009)

The written answer suggests that the Commission selected the group members on the basis of their country of origin and their expertise. In interviews it transpires that the Commission had little control over who was selected aside from the nomination of the Chair, and that the process was very informal. The President's cabinet and the leadership of DG Markt "turned to a number of senior people to check their availability [for the chair]. We also checked with a number of capitals to see if they had names that they could propose." (interview Commission 4). According to some, the person nominated was at the discretion of the capitals, with members having "no idea how the various countries that appeared on the de Larosière group were selected" (interview

with Expert Group Member 1). For others, the chair was instrumental in convincing some members to take part (Expert Group Member 2), which highlights the importance of the Chair's networks and reputation in this informal, though not unusual, process.

The respect commanded by de Larosière was emphasised by all interviewees. As one official explained in relation to the chair and the members of these expert groups:

You choose a very respectable name partly to use that respect. So it is a respected, neutral, independent person. So de Larosière fulfilled that profile, Monti also for the budget. So why would we do that? It is the credibility of the person and the experts that surround them and it is to ensure that it is not just the vision of the Commission, it is not just an initiative that comes from an institution which may have a view about the way things should be. (Interview Commission 6)

The credibility of the process depends on the profiles of the members. Experts are involved in their personal capacity and do not represent the interests of any group or the Commission's views. From this perspective, the profile of the members and the need to proceed in an informal manner to let the chair use his network to secure the best experts points to instrumental concerns and the importance of guaranteeing a successful process.

Furthermore, the profile of the members of the High Level Expert Group reflects that of past expert groups too. They are composed of high profile professionals who combine experience in international fora, as central bankers, economists and even ministerial positions (see Annex 3: Composition of High Level Expert Groups by professional background **Error! Reference source not found.**). They often know each other because of collaboration in other international settings and belong to the transnational policy community engaged in international financial and monetary governance (Tsingou 2014). As was the case for other expert groups, the experts in the High Level Expert Group chaired by Jacques de Larosière came from the member states with the largest financial sectors in the EU, and represented a geographical balance of the different regions of the EU. Thus, despite a rather opaque and informal

selection process, this way of proceeding might at first sight suggest instrumental concerns: it ensures that the profile and stature of the group is in a capacity to deliver the rather broad and vague mandate of a reflection process.

However, most people interviewed underlined the value of such expert groups because they are *perceived* as impartial and command respect. This may stem from strategic use of the experts to push for the Commission's agenda through stealth – this would point to power-maximization concerns. In explaining the choice of the chair and the function of the experts more generally, another official explains that:

He [de Larosière] had an international status, he was very well known. He was respected by everyone. And on the other hand he was sufficiently neutral too. He wasn't perceived as being too French. Because this is also important – the choice of personalities, at least for the chair of the group, to take someone who is not perceived as defending the interests of a particular member state or one group in particular. (Interview Commission 3)

The idea that the Commission uses the respect and *perceived* neutrality of the chair and the expert group members strategically, may suggest power-maximization concerns. This would imply that the Commission acted by stealth to push for its own agenda, using the experts and their report, a point I come back to in the last section of this chapter (section 4.3.2). However, the emphasis on the status and prestige of the personalities in the expert group and the importance of signalling neutrality, highlighted in the quote above, also suggests that legitimacy concerns may have played a role.

Indeed, there is some evidence to suggest that the Commission may have sought to derive some form of prestige from setting up such a process. When Barroso announced to the EP that he was setting up such a group he emphasised both the chair's past experience and his personal pride in having secured such a prestigious person to chair the group:

I am *proud* to announce to you today that Jacques de Larosière, former Director-General of the IMF, Governor of the Banque de

France, President of the EBRD, has accepted my invitation to chair this group which will be independent and consist of high level experts in the subject matter. (Barroso, 8 Oct 2008, author's emphasis)

Two weeks later, the President followed up on his initial announcement in another speech in the EP plenary on the 21st of October in which he listed the names of each of the other seven members of the High Level Expert Group. But he remained vague on the scope of the group's mandate and work programme simply stating that "the group will look at cross border financial supervision" and "the results would input into future action" (Barroso 2008b). The focus, in the initial stages of the existence of the High Level Expert Group, was on the members, and less on the mandate and ambitions in terms of the knowledge it would generate. This points to legitimacy concerns as the Commission appears to have valued the prestige of the members, and in particular of the chair, rather than the work and potential output of the High Level Expert Group.

To borrow from the concepts in science and technology studies, the members, and in particular the chair, span boundaries between the social world of legal experts inside the IOs, the world of financial experts (industry), and that of central banks and political elites (treasury and heads of states) on the other. Respected in all of these social worlds, these individuals command authority deriving from their attributes. The main concern is that they should be very high level to the extent that they are able to exercise authority in their own right and not through delegation. This requirement is particularly important when it comes to the chair. This emphasis on the cross-sectoral experience and skills of the members may be considered to reflect legitimacy concerns or instrumental concerns.

Nevertheless, in terms of the mandate and broader goals that the Commission envisioned for the High Level Expert Group, there is evidence of instrumental concerns in relation to the indicator on steering. Indeed, the Commission's use of these ad-hoc, independent expert groups and their reports has been a regular feature of the organization's actions going back to the 1960s with reports covering many areas (Economic and monetary union and reforms to European institutional structure are

perhaps the most common). Most interviewees inside the Commission underlined how common an approach this was and almost always referred to past reports to illustrate their point. For instance, an official inside DG Markt explained that:

It is not a completely unusual process because we had something similar with the Lamfalussy Committee which was at the origin of the creation of the Committees for European supervision. And since then we somewhat replicated the process with the creation of the Liikanen high level group on banking structures. So we do that from time to time. (Interview Commission 3)

Outside the Commission, calling upon High Level Expert Groups is also recognised as a conventional way of proceeding: “this is traditional way of doing in the Commission. You take an external Committee to do work for you” (Interview with Karel Lannoo). Two interviewees explicitly refer to the “added value” of these reports with one describing the exercise as “a relatively typical thing, a process which I think has a huge value added” and another as:

A very good process because it allows us to think outside of the institution and to bring experts together and to have a more comprehensive overview of the challenges and how to address them. So it provides in general excellent reports with a lot of value added and are still valid years later and are referred to years later. (Interview Commission 6)

Interviewees talk of a “process”. This understanding of the purpose of the expert groups and their reports appears to be reflected in the broad and rather vague mandate that was drawn up for the High Level Expert Group by the Commission in October 2008 (see section 4.1.2 of this chapter). The purpose was “to launch a reflection process in order to build common ground” (Barroso 2008a). This suggests instrumental concerns as the Commission chose a process that would allow for a broad reflection to take place to provide a basis for future reforms. Expert groups are a relatively common feature of the Commission’s way of proceeding when it wishes to gather original thinking about the big questions.

Nevertheless, the manner in which interviewees refer to other expert groups and their reports could also suggest that officials attach symbolic value to the exercise itself. Many interviewees inside the Commission referred to other similar reports by other expert groups when they talked of the de Larosière Report. The following reports were mentioned by one or more interviewees inside the Commission: the Segré Report (1966), the Delors Report (1989); the Lamfalussy Report (2001); the Monti Report (2010) and the Liikanen Report (2012). The Segré Report and Monti Report were mentioned only once by different interviewees. But the other three reports featured much more in the discussions. When interviewees referred directly to reports, they always used the name of the chair to qualify the report.

The reference to the Lamfalussy Report in interviews with officials inside the Commission may stem from the fact that people were talking with the benefit of hindsight: the transformation of the Lamfalussy Committees into three Supervisory Authorities is considered a logical development in the Single Market process in financial services. The de Larosière Report is often talked off as the logical follow-up of the 2001 Lamfalussy report – at least this is the way it is portrayed in 2016-2018, after the creation of the Banking Union. I come back to what this narrative about continuity in the development of the Single Market in financial services in the next Chapter in which I investigate in more detail how the Commission, and DG Markt in particular, selected and used different inputs to shape the contents of the ESA legislative proposals (see section 5.1).

Nevertheless, it is noteworthy that references to the Lamfalussy Report and the Delors Report were frequent in many interviews with officials inside DG Markt, because these are often associated with narratives about successful instance of European integration²⁴. The evolution in the way the Commission inscribes the name of the chair and publicises the prestige of these expert groups in the final reports provides some initial insight into what the Commission deems valuable to publicise. As was the case with de Larosière Report, the front pages of the Segré Report and Lamfalussy Report refer to the groups as “experts”, as “wise men” or as being “high level” (this is also

²⁴ For the Delors Report, see Hodson 2013; Verdun 1999; Dyson and Featherstone 1999; James 2012; for the Lamfalussy Report, see Delsaux 2004; Janin 2008; Moloney 2002.

the case with the expert group chaired by Erkki Liikanen in 2012 on Bank Structural Reform). This is to be contrasted with the Delors Report which did not refer to the expert qualities of the group members nor to its chairman on the front page, even though it is probably the most notorious report²⁵ and is always referred to as the “Delors Report” in speech and in the press. The practice of referring to these reports by the name of the chair becomes inscribed on the front page of the De Larosière Report (a practice that persists with the Monti Report on 2010 and the Liikanen Report in 2012). Finally, the terms “Committee of Wise Men” to describe the expert group chaired by Alexandre Lamfalussy in 2000-2001, and inscribed on the first page of the Lamfalussy Report, suggests that the Commission was also keen to publicise the eminence of the expert group as a whole. This terminology is now commonly used to describe the practice of setting up High Level Expert Groups to reflect on the future of European integration. Two interviewees inside DG Markt used the terms “wise persons’ groups” and the EP, in calling for an expert group to be established, twice refers to “setting up committees of wise persons” in its resolutions on financial supervision in the EU (EP (2008/2148(INI) 2008; EP (2006/2081(INI) 2006).

However, the qualification and professional occupation of the group members are listed only in the Segré Report. In the Delors Report, the list of members appeared on the last page of the report and their credentials were not listed, meaning that the members were valued for instrumental reasons. Indeed, the Committee gathered the Governors of the Central Bank of each of the member states of the EU at the time. But moving to the Lamfalussy Report and the de Larosière Report, the Commission appears to have kept the practice of inscribing the names without credentials, but moved the list to the second page of the reports. This way of listing expert group members – absence of credentials but positioned on the second page of the report – appears to be a relatively recent development for the Commission (the Liikanen report

²⁵ The Delors Report is the only one that has really generated scholarly interest in the strategic role of the Commission. Political scientists either interpret it as a manifestation of importance of Commission leadership (Dyson and Featherstone 1999a; Fratianni and von Hagen 1990; Van Assche 2005) or view the Commission as driven by power-maximization and who act as policy entrepreneurs to push for existing ideas (Dyson and Featherstone 1999c). Historians working on the Monetary Union present the Commission’s President’s leadership role as one of the many dimensions that played into the creation of the single currency (James 2012) or focus on the personality of the former President of the Commission (Grant 1995).

follows the same presentation), and contrasts with how other IOs proceed: they systematically list the functions of the experts, usually in the annexes (as in the case of OECD expert reports).

Inscribing the names on the second page of the report suggests that the Commission attaches importance to promoting the list of members. But though the emphasis is on the “high level” qualification of the group on the first page, the credentials and professional occupation or country of origin are not listed on the second page of the reports, or indeed anywhere else in Lamfalussy Report and de Larosière Report. The absence of a listing of the members’ titles or function suggests that the symbolic value of having these prestigious actors on board is not a primary concern for the Commission. But, as landmarks of European integration, notably in matters related to monetary integration (the Delors Report) and the Single Market process in financial services (the Lamfalussy Report), these reports occupy a prominent place in the internal narratives on European integration in relation to the Single Market.

To conclude, there is clearly some continuity in the membership of these expert groups. First, they are all members of the transnational policy community engaged in international financial and monetary governance. And there is also continuity in terms of the chairs: both Jacques de Larosière and Alexandre Lamfalussy were members of the Delors Committee, and Lamfalussy was even on the Segre report in 1966. There is also continuity in the secretariats of the expert groups: David Wright, Deputy Director-General in DG Markt at the time of the ESA reforms in 2008-2009, was on the secretariat of both the Lamfalussy Report and the de Larosière Report. This chapter has already highlighted the role of certain officials inside DG Markt, and notably David Wright, in promoting the idea of a High Level Expert Group, and may even have suggested the name of the chair to the President of the Commission. I now turn to an investigation of the Commission’s steering of the knowledge production process, with the aim of understanding whether informal steering of the knowledge production inside the group may have taken place, notably through the role of the secretariat.

4.3.2 Steering of the knowledge production process

The timeframe given to the expert group for producing the report was relatively short. The only requirement was that it should be delivered in time for the spring Council of March 2009 but there was little indication otherwise on what the Commission was intending to do with the report. This may be because the context of the crisis required a swift production of the report which would indicate instrumental concerns. However, one official explained the purpose of such reports in a manner that suggests strategic behaviour to create an impact: “It is much better to have a short timeframe to produce the report. It sort of creates an incentive for everybody ...and... makes the report an anticipated thing. If you give a mission to a group of experts and they produce it three years later, it loses a lot of its impact” (Interview Commission 4). This suggests that the Commission may have wanted a swift delivery for strategic reasons, which points to power-maximization in relation to the indicator on timing. On the one hand, the report could have been used as an agenda-setting device for exploiting a political window to increase the Commission’s powers and influence. This would be substantiated if there is evidence of informal steering to shape the contents of the report to suit its preferences. This may also indicate that the report was valued more for the prestige of using external experts and for legitimating existing ideas than detailed contents of the recommendations or new technical input which could suggest legitimacy concerns. A closer look at how the Commission steered the knowledge production process inside the expert group may yield further insight.

From an outsider’s viewpoint, the Commission appeared to show little interest in steering or influencing the discussions and work inside the expert group. The terms of reference of the High Level Expert Group were vague when it came to the process for knowledge production, only mentioning that “the Group will conduct hearings and organize a consultation as appropriate” (Annex, de Larosière 2009). The Commission paid no attention to transparency procedures and to reporting the group’s discussion or progress at the time of its work, a point that is confirmed later on in McCreevy’s answer to a written letter by MEP Claude Turmes. The answer is explicit that the Commission never foresaw publishing the minutes of the expert group report: “The Commission does not intend to publish the minutes of the Group’s meetings as such

publication was not foreseen when the Group was set up” (European Commission 2009d). This loose steering may be evidence that the Commission was not particularly interested in what the experts discussed and produced and only in using the group’s existence as a signalling device. One of the members of the expert group that I interviewed mentioned that Barroso never interfered and that they never saw him even though they were meeting on the top floor of the Berlaymont Building where the President’s offices are situated (Expert Group Member 1). This would suggest legitimacy concerns.

However, the purpose of this informal and laissez-faire approach may also have been to enable a frank and deep discussion. And indeed, the members of the expert group I interviewed concur that this element of discretion and secrecy did allow for frank and in depth discussions. The absence of any record of the discussions and the process of the elaboration of the report still leaves open the possibility for a more informal steering of the process. For instance, it appears that the Commission President gave de Larosière a restriction on the mandate in an informal manner: “no treaty change” (Interview Commission 5). This may point to his concern about keeping the possibility of the reforms alive with the member states, or it may simply reflect his style of Presidency. The important point is not to establish whether or not the de Larosière group worked with the terms of this informal mandate – there are strong reasons to believe that if the eight members of the group had come to a consensus on changing the mandate and role of the ECB for instance to incorporate supervision of cross border banks, then that would have featured in the report. The important point from the perspective of the Commission was that it wanted a report with recommendations that would be workable given the constraints the Commission operates under. This suggests either instrumental or power-maximization concerns. I now turn to investigate the potential for informal steering and shaping of the discussion and report through the group secretariat.

One of the characteristics of these expert groups is that the Commission usually delegates officials from its services for the secretariat of the expert groups. The staff play a significant role in the drafting and redrafting of the different stages of the report and manage the process in between meetings. As such, even though they are delegated

in an administrative capacity, these officials fulfil a much more strategic function in the process of producing the report. As one official mentioned, having the secretariat is a means to keep some kind of control over the process: “It is the Commission that had the secretariat, which is so to say, the way of controlling things.” The official goes on to explain in more detail the tactical dimension of using independent expert groups:

It is always better to have an independent group because that makes it possible to get ideas through as if they were not those of the Commission. [...] If the Commission had come along with the proposals that were in the de Larosière group, they would probably have been rejected. But because they came from an independent expert group, they were perceived as being more acceptable.
(Interview Commission 4)

Prima facie, this would suggest power-maximization motivations: the staff on the secretariat would use the report as a venue to get ideas across by stealth. But the assumption would be that these ideas would promote the influence and/or power of the DG or the Commission. However, these comments also suggest that the Commission was seeking to gain credibility for ideas that it may have wanted to promote. It may have sought to use the group and its report to substantiate existing ideas that were not necessarily about increasing their power and influence.

Nevertheless, the strategic dimension of the expert group report is reflected in the profile of the rapporteurs on these reports; they are able to grasp political nuances and are in a capacity to exercise influence, which suggest power-maximization in relation to the indicator on who is involved internally. For instance, on the Delors report that was mentioned by a number of people interviewed inside the Commission, one of the two rapporteurs was Tomaso Padoa Schioppa who had been an official in the Commission before leaving in the early 1980s to become governor of the Central Bank of Italy. He had the unique position in the Delors Committee of bridging the worlds of central bankers (the members of the Delors Committee) and the Commission. As for the rapporteur on the de Larosière report, David Wright, he had already been on the secretariat of the previous flagship expert group report for the integration of supervision at European level, the Committee of Wise Men chaired by Alexandre

Lamfalussy in 2000 and 2001. And according to one official inside DG Markt, “he was holding the pen, he was an extensive discussant” in the expert group too. This idea of the Commission “holding the pen” thanks to the secretariat is also mentioned by another Commission official that was on an expert group secretariat. Thus, there is an awareness amongst officials inside DG Markt of the strategic importance of the secretariat as a means of shaping the content of these reports. This points to power-maximization concerns.

Nevertheless, though there is strong evidence of power-maximization motivations in terms of the potential for informal steering of the contents, officials all emphasised that the group members had their own ideas and were not simply names on a report that was actually written by the Commission. Martin Merlin who was on the secretariat of the de Larosière report explained:

I drafted with the chair the chapters on regulation and supervision, chapters 2 and 3 but of course under the control of the chairman mainly. They all worked very hard, but the chairman really did almost everything. He really drove the process forward in a very impressive manner.

The role of the chairman in pushing for “his own ideas” was also put forward by another official in reference to his role on an expert group secretariat. And certainly, the members of the expert group I interviewed all talk of the amount of work that they put into the group discussions, with one describing it as one of the most challenging exercise he had ever taken part in (Expert Group Member 2). This suggests that work was much more collaborative and that the Commission may have used the expert group report as a sounding board, to adjust the scope of the recommendations in the report. This suggests instrumental concerns to build common ground for a workable solution.

However, evidence of the strong engagement of the secretariat in the drafting of the expert group report may also imply more symbolic reasons for steering the deliberations, i.e. to substantiate the Commission’s ideas. Martin Merlin provides a full picture of the importance of the chair:

Well I think you need a profound understanding of banking regulation which he has, profound knowledge as well of wider economic and financial issues because the crisis derived not only from weaknesses in banking regulation but also from monetary policy developments and macroeconomic imbalances. So clearly De Larosière knew very well about these two areas. And then he is also a very respected figure you know and that helps a lot in driving the process within the group and then in selling [emphasis with slight pause after the emphasised word] the recommendations afterwards.

Once again, these comment emphasise the importance of the chair; but the quotation also highlights the importance of having a successful process within the group in order to “sell the recommendations afterwards”. This suggests that the Commission was keen to secure the support of the transnational policy community of professionals involved in central banking and international financial and banking supervision. From this perspective, the strong engagement of the secretariat was coupled with a strong interest in the symbolic value of having such a respected and eminent chair and group of members more generally. This suggests a desire to signal credibility, which would point to legitimacy concerns.

Conclusions

After the bankruptcy of Lehman Brothers mid-September 2008, the European banks and banking system came very close to collapse in October 2008. It is in this context that the President of the European Commission set up a High Level Expert Group in October 2008 to work on reforms to EU supervision. The decision to set up High Level Expert Group might, at first sight, suggest instrumental concerns to build a common ground in the EU for reforms to supervisory governance. Nevertheless, the choice of the method of a High Level Expert Group is a little puzzling given the urgency of the situation in the autumn of 2008; and the somewhat vague and cautious mandate for the group suggests that legitimacy concerns. The choice of a High Level Expert Group may have been aimed at showing that the Commission was taking action rather than driven by concerns of finding the best solution. This possibility that signalling may

have played a role in the Commission's motivations, in particular the leadership's motivations, is reinforced by evidence that the President was involved in setting up the group, over and above the Commissioner for internal market.

When investigating the Commission's selection of the members of the expert group and terms of reference of the expert group, instrumental concerns may have been at play in the weak and vague mandate and in the lack of transparency and information about the selection and the credentials of the members. Nevertheless, the vague and weak mandate in conjunction with the way the Commission communicated about these experts suggests that the Commission may have been keen to show its capacity to set up such a prestigious process.

However, internally, some officials viewed the role of the secretariat on the expert group, composed mainly as staff members from DG Markt, as a means to put forward the Commission's own ideas. This suggests strategic uses of the expert group and its report which points to power-maximization motivations. Furthermore, this is substantiated by the fact that officials inside DG Markt played a role in suggesting the idea of an expert group to the President. This points to a power-maximization understanding of timing: they positioned themselves to gain influence given the window of opportunity provided by the context of the autumn of 2008. There is a need to investigate these expansionist motivations inside the Commission's services, in particular in DG Markt, which will be the focus of the next chapter.

Chapter 5 Drafting the reform proposals

Introduction

This chapter focuses on the period of time starting with the publication of de Larosière Report on 25th February 2009 up until the publication of the proposals for regulation creating the three European Supervisory Authorities (ESAs) on 23rd September 2009 (henceforth legislative proposals)²⁶. The purpose of the chapter is to investigate theoretical approaches to motivations for action – instrumental, power-maximization and legitimacy – by analysing the actions *inside* the Commission in relation to the drafting and contents of the legislative proposals. I have selected a subset of three indicators to gauge the possible existence of these different motivations for action; the chapter explores how the Commission used the expert group report and its recommendations (substance), what knowledge the Commission draws on internally (who was involved internally) as well as how the Commission organized the work internally (steering).

Regarding the indicator on *substance*, power-maximization concerns would yield evidence of the Commission cherry picking input or transforming input to put forward proposals that increased the Commission's powers whilst dismissing recommendations that wouldn't increase its power. Alternatively, if evidence points to selecting input that clearly links the analysis and recommendations in the de Larosière report to the Commission proposals regardless of whether the Commission or the DG stand to gain more power and influence, then this is evidence that instrumental concerns played a more prominent role. Finally, evidence of the Commission selecting input that fits more with internal beliefs and narratives about how it perceives its role, regardless of whether input provides the best solution to the diagnosis of the crisis or increases its power and influence, would point to legitimacy concerns. Selected input

²⁶ The proposals for regulation also included the regulation to create the European Systemic Risk Board (ESRB) for the coordination of macro-prudential supervision.

would aim at mirroring organizational goals and be in line with organizational culture rather than criteria of efficiency.

In terms of the indicator on *who is involved internally*, power-maximization concerns would be evidenced by officials with political profiles, the capacity to influence and yield informal power, and perhaps seeking to gain personal power and influence too. Instrumental concerns would imply that those involved were technically skilled, recruited because of the knowledge of the technical aspects or because they were able to coordinate the right skills needed to deliver an effective solution. Finally, to identify legitimacy concerns requires looking at the level of seniority and longevity of service of those involved: the higher the seniority of those involved in steering the process the more organizational credibility concerns may have played a role, while longevity opens the possibility of officials having been socialised into organization's culture.

Finally, regarding the indicator on *steering*, power-maximization concerns would yield evidence of strong formal and/or informal steering of the process, and control over the input in order to shape the content to satisfy ambitions to increase influence and resources. If driven by instrumental concerns, the Commission would steer the process to generate a response that is relevant to the problem; this suggests relatively strong oversight and steering to keep the process on track. Any interest in shaping the content would be driven by a concern to deliver a feasible and deliverable solution. Finally, legitimacy concerns would imply strong evidence of steering but with a purpose to signal that the organization is following established procedures; and steering would be driven by a concern to signal that the Commission is addressing the problem according to expected rules and perceived role expectations.

The chapter is divided into three sections. First, I investigate how the Commission made use of the input from the de Larosière Report to shape the contents of the legislative proposals, with a focus on the instrumental and power-maximization concerns in relation to the indicator on substance. The second section unpacks the expansionist ambitions of situates the selection of the input in the broader organizational goals of the Single Market process, highlighting the role and implications for behaviour of a strong organizational culture at the level of the DG

Markt. The third and last section is an analysis of who was involved internally and the steering of the drafting process for the legislative proposals inside the Commission.

5.1 Selecting knowledge input: how the Commission uses external knowledge

5.1.1 Settling on the institutional solution of three sectoral Authorities

When Barroso initially announced the decision to set up the High Level Expert Group, his stated goal was that the group should reflect on the future of European supervision and build common ground (Barroso 2008; see Chapter 5, section 4.2). Evidence of the content of the group discussions and the collaboration between the experts and the secretariat suggests that the process of the report production did aim at adjusting the proposals to build common ground on future reforms for supervisory governance. This would point to instrumental concerns, suggesting that the Commission was open to new ideas on the most effective means of addressing the shortfalls in regulation highlighted by the crisis. The report included an analysis of the causes of the crisis, proposed actions on regulation, on reforming the institutional set-up for supervision in the EU, including creating the ESFS and transforming the Lamfalussy Committees into European Authorities. Evidence from interviews with officials inside the Commission suggests that the staff on the report's secretariat were active in calibrating the scope of the reforms.

The group, including the secretariat, also played very strong attention to the degree of support for reforms to the supervision architecture in the member states: "Why not one authority? We made the choice you know of evolution, not revolution. De Larosi re wanted to move forward with respect to European integration but he wanted to be successful as well, and he did not want to rock the boat too much." (Interview Commission 3). Working in conjunction with the chair of the expert group, officials appear to have used the elaboration of the report as a testing ground for what would be

politically feasible. At times, the rapporteur, the British Deputy Director-General of DG Markt, David Wright, “made sure that the recommendations would remain acceptable to the UK.” (Interview Commission 3). Prima facie, evidence of this informal steering of the content of the expert group report may corroborate power-maximization motivations.

However, using the expert group as a sounding board and informally testing the recommendations may also point towards more of an “astute instrumental” approach to shaping input. A number of member states viewed a single supervisor as empowering one actor with too much potential for influence. In particular, the British government had consistently opposed the creation of a single European supervisor and the German government was reluctant because of the position of the LandesBanks, whereas the French were more supportive of integrating supervising though along sectoral lines only (Buckley and Howarth 2010, 127, Interviews Commission). The proposals to create three Authorities stemmed from assessing what was politically feasible with a view of reaching common grounds for reforms, in particular with member states. This is evident from interviews with most of the officials who worked closely on the ESA reforms, not only those involved in the secretariat of the expert group. They were concerned about “keeping the proposals alive”:

You know De Larosière, a single supervisor at the end of day would have been the logical thing to do, our calculation was that we can’t go from nothing to that, we will just get it killed and it’ll be dead.
(Interview Commission 5)

Once again, this quote highlights a strong strategic understanding of the context which could suggest tactical positioning, and shaping of the input to gain more powers and influence (power-maximization in relation to the indicator on steering). However, the main goal of developing a deliverable and feasible solution suggests that the Commission wanted to successfully achieve the reforms. It was focused on the effectiveness of the measures, rather than enhancing its own power, which points to a form of “astute instrumentalism” rather than crude power-maximization goals.

Furthermore, the de Larosière report also appears to have provided the Commission with a procedure and rationale for developing the reforms to ensure a successful delivery, by “building on existing structures”. The report recommended:

Stronger coordinated supervision – macro-prudential and micro-prudential.

Building on existing structures. Ambitiously, step by step but with a simple objective.

Much stronger, coordinated supervision for all financial actors in the European Union. With equivalent standards for all, thereby preserving fair competition throughout the internal market. (de Larosière, 2009 4, in the chair’s avant-propos).

The emphasis on “building on existing structures” and proceeding incrementally (step by step) was a means of dealing with the contentious issue inside the expert group on whether to attribute macro-prudential powers to the ECB, and whether a single European supervisor or Twin Peaks model were preferable political solutions than three sectoral authorities (Expert Group Member 1 and 2; Commission official; De Larosière 2009b)²⁷. This way of proceeding in relation to developing the reform proposals was used by officials in the Commission, and features in their rationale for explaining the decision to create three sectoral Authorities. In interviews, officials underline political constraints and frame the decision as driven by a rationale for advancing incrementally:

Maybe of course, we could have gone for one single authority... The fundamental reason was that you have these three committees, and it was just the easiest, a smaller step. And then maybe in a second step, you could move them together. Again, it was discussed, but it was the natural thing to do, [the three authorities]. (Interview Commission 7).

Whether there is a case for a single supervisor across the board for capital markets? That would really be a very very – I think politically

²⁷ For an assessment of the different institutional solutions available for supervision at EU level, see Eddy Wymeersch’s study on the Structure of Financial Supervision in the EU (Wymeersch 2007).

a very very difficult deal to make. So as usual in Europe we are going to advance by increments. And maybe we will just continue finding specific areas where single supervisor makes sense. And then somewhere down the line, people will say, “well now...”. (Interview Commission 1).

Officials viewed incrementalism as a strategic way of moving forward with the reforms given their assessment of the political constraints. There is a possibility that this understanding of strategically pushing for more integration in an incremental way inherently opens up opportunities for the Commission to go further in the future. This would suggest more power-maximizing motivations, provided integration is understood as a means for the Commission to increase its powers and influence over the policy area and vis a vis other institutions and the member states.

However, in this case, strategic behaviour appears linked to instrumental concerns. Indeed, strategic behaviour, in this case, is more consistent with how neofunctionalist literature would view the behaviour of the Commission in relation to integration, working strategically to enable further integration in areas identified as needing more cooperation (Sandholtz and Zysman 1989; Sandholtz and Stone Sweet 1998). This neofunctionalist understanding of integration was referred to directly by one official interviewed: “I don’t know what your personal view of European integration theory is, it is a long time since I studied it at university – this classical neofunctionalist logic: you have a problem, it can’t be solved at purely national level and so we stepped in.” (Interview Commission 5). This suggests there was an understanding that the Commission was the relevant organization to deal with the problem of coordination in matters of supervision. The strategic positioning to further integration in matters of supervisory governance would stem from a concern about efficiency, which is consistent with findings by Kassim and colleagues (2013) who have shown how officials’ pro-integration agenda is specific to the policy area and the perception that centralisation will increase efficiency (Kassim et al. 2013, 280).

Nevertheless, the manner in which interviewees refer to the process of integration in the governance of financial services also suggests learned behaviour over a long period

of time. One official goes back to second Banking Directive in the early 1990s to explain the choice of incrementalism in relation to the process of integration in financial services:

We started making the banking market in the 1990s. We started what is called the second banking directive and this concept of minimum harmonization. You start and then little by little you get more and more federal. That is the way people think here in Brussels. (Interview Commission 8).

Comments that refer to the step by step approach as the “natural thing to do”, as “as usual in Europe” or “the way people think here in Brussels” suggest that the rationale underpinning the reforms in relation to financial market supervision may stem from inherited beliefs or learned behaviour over time. This would point to action driven by a strong organizational ideology with a richer set of substantive goals having played a role than a narrow objective of problem-solving.

And finally, though the Commission appears to have built on the recommendations of the de Larosièrre report in putting forward a proposal to create three Supervisory Authorities, it did somewhat pre-empt the publication of the de Larosièrre recommendations. In January 2009, it adopted Commission Decisions that replaced the Decisions establishing the three Lamfalussy Committees. The purposes of these new decisions was “to strengthen the supervisory framework for EU financial markets, in order to improve supervisory cooperation and convergence between Member States and to reinforce financial stability”. The Commission also proposed “that these committees [...] should be provided with financial support from the EU budget so that they can achieve their objectives as rapidly and efficiently as possible.” (European Commission 2009a). This may point to instrumental concerns in relation to timing: the need to act swiftly in order to improve financial market governance and the budgetary capacity of these Committees may well have been due to the context of crisis – this was the rationale put forward in the press release at the time (European Commission 2009a). But it also opens the possibility that the Commission may have been pre-empting the de Larosièrre recommendations, pointing to strategic behaviour more in

line with power-maximization concerns to do with timing. A further investigation of how the Commission acted in consequence of the Decisions in January 2009 may yield evidence of power-maximization concerns: the last section of this chapter deals with how the Commission steered the process of an increase in the role and budget of the Committees as a result of the Decisions (see section 1.1.1).

In summary, there is strong evidence of strategic behaviour that appears to derive from a form of “astute instrumentalism” rather than tactical behaviour to maximize power. However, this does not necessarily entail that the Commission did not stand to gain power and influence through this specific recommendation of creating ESAs. Next, I look into the detail of what and how the Commission selected from the recommendations of the de Larosière report. I going beyond the choice of three sectoral authorities to investigate the powers, role and governance structures that the Commission attributes to the ESAs in the legislative proposals.

5.1.2 The devil is in the detail: continuities and discontinuities between the report and the legislative proposals

The de Larosière report contained 31 recommendations over four chapters. DG Markt was involved as the secretariat in the drafting of the chapters two and three that dealt with correcting regulation related to supervision (Chapter 2) and the creation of a European System of Financial Supervision (ESFS) (Chapter 3). Chapter 5 of the report made recommendations on moving forward internationally and dealt with the involvement of European entities and institutions in international bodies.

For DG Markt, the chapter on the ESFS (Chapter three) was the most important. David Wright, Deputy Director-General of DG Markt at the time and rapporteur on the de Larosière report, explains in an interview published in DG Markt’s news bulletin in April 2009 that “The de Larosière report has four chapters... the third issue is supervision and that is where the real interest lies” (Wright 2009). He was referring to proposals in the report to create two new institutional pillars for the governance of supervision. The first institutional pillar, presented in recommendation number 16 of the report, called for the establishment of a body for macro-prudential supervision, the

European Systemic Risk Council (ESRC) under the aegis of the ECB. The discussions amongst experts in the de Larosière group focused heavily on the macro-prudential aspects of supervision because of the systemic dimension of the crisis. There was a strong debate internally on the degree to which the ECB should be given supervisory powers on macro-prudential matters. The group considered the creation of the macro-prudential body, the ERSC, as the most urgent institutional transformation, a point that was emphasised in the report and in the chair's subsequent speeches and interventions (see also Semmler and Young 2010). The second institutional pillar, on micro-prudential supervision, consisted of recommendations number 21 and number 22 in the report; they outlined a two-step process to transform the Lamfalussy Committees into a European System of Financial Supervision (ESFS) with three European Supervisory Authorities (ESAs). The first step was considered the most urgent and focused on creating colleges of supervisors for "major cross-border financial firms" with the support of the Lamfalussy Committees by the end of 2009 (de Larosière 2009, 52). The report recommended the transformation of the Lamfalussy Committees into European authorities as a second step only, to be carried out after 2011, and less of an urgent reform (de Larosière 2009, 56). To carry out this second step, the report recommended that a steering group be created composed of "high-level representatives of the Finance Ministries, the European Parliament, the Lamfalussy Committees and the ECB to be chaired by the Commission" (de Larosière 2009, 56).

In what appears to be quite a clear case of picking and choosing the contents of the report, the Commission proposed to accelerate the process and transform the Lamfalussy Committees into European authorities directly. On the 4th of March 2009, a week after the de Larosière Report was published, the Commission outlined its plan for building on the report in a Communication for the Spring European Council entitled "Driving European Recovery" (henceforth March 2009 Communication):

The Commission considers that action is urgently needed and will propose to accelerate the implementation of the Group's findings. By combining the two phases proposed by the Group, it should be possible to move more quickly to both improve the quality and coherence of supervision in Europe, and to transform the three

existing Committees into authorities within a European financial supervision system. (COM (2009) 114 final, 6).

There was no mention of “the group of high-level representatives of the Finance Ministries, the European Parliament, the Lamfalussy Committees and the ECB to be chaired by the Commission” that the de Larosière report had recommended for planning the transformation of the Committees into European authorities. Instead, the Communication requested that the Council endorse a one-step transformation in the form of legislative proposals.

Furthermore, the Commission held a consultation on the de Larosière Report and on its March 2009 Communication; it did not publish an independent summary of the consultation but included the points in the impact assessment that it published alongside its more detailed Communication on reforming supervision entitled “Reforming European Supervision”, published on the 27th of May 2009 (henceforth May 2009 Communication). On the last page of the 44 pages long impact assessment, the Commission recognised that “[o]n timing, a number of sectoral submissions argue for a cautious, two-stage approach, as proposed by the de Larosière report. Very few of them explicitly favour a rapid approach” (European Commission 2009c, 44). Nevertheless, the Commission persisted in calling for a direct transformation of the Committees into European authorities despite the fact that most of the responses to the consultation had rejected the accelerated process. This tends to substantiate further a power-maximization approach to how the Commission selected input: it chose to leave out information that did not suit its preferences to accelerate the transformation of the Committees into Authorities.

The Commission held another consultation on the May 2009 Communication in which it had set out in much more detail how it proposed to create a ESFS and notably the three ESAs. An official who was involved in drafting the regulations corroborated the point that the Commission made little use of the input from both consultations:

There were not that many people who would have had brilliant ideas to be honest. The more public consultations are technical, the more you have people and stakeholders who are very knowledgeable and

who have very good ideas. But if you go to these more institutional issues, quite frankly, this is not their skills and their strengths and they are also very quickly in political territory and they don't want to mess up with their own governments. (Interview Commission 7)

This comment suggests that the Commission did not value the input from the consultations for adjusting the contents of the proposals, and that it had no intention of using the input to adjust the content of the proposals. The Commission had not adjusted the scope of the proposals after the consultation on the March 2009 Communication, and it appeared to downplay the importance of the knowledge it was gathering for the second consultation, on the May 2009 Communication. The question, however, remains as to why the Commission held consultations when it knew it would not use the input. I look into this in the next chapter, when I explore the possibility that the Commission held consultations to signal that it was leading a decision-making process according to the appropriate and expected standards (legitimacy concerns in relation to the indicator on steering). But with regards to the indicator on substance, the Commission did not appear to adjust the main contours of its reform proposals or, in any major way, the contents of the proposals according to the submissions it received in the consultations.

Going back to David Wright's comment on the importance of the Chapter on creating an ESFS in the de Larosière report, it is worth emphasising that DG Markt was the DG that stood to gain the most influence from this direct transformation of the Lamfalussy Committees into European authorities. The legal entity of a European agency served as a template for the ESAs (Interview Commission 3). This is relevant for investigating power-maximization motivations because agencies are traditionally closer to the Commission than other European institutions (Wonka and Rittberger 2010). Though independent, they do have governance and budgetary ties to varying degrees with the Commission. For each European agency, there is what is called a *DG de tutelle* (guardianship); each European agency is directly in contact with the DG inside the Commission that is topic relevant. In the 2000s, after the Lamfalussy process was put in place to support the rolling out and implementation of the Financial Services Action Plan (FSAP), the Commission organized the production of rules and regulations to

develop the Single Market in financial services along the sectoral lines of the Lamfalussy Committees: three pillars, all under DG Markt, that focused on banks (Capital Requirements Directive and related), insurance and pensions (Solvency II and related) and capital markets (Markets in Financial Instruments Directive and related). This division of labour is still reflected inside DG Fisma today. Different units are in charge of the different pillars for the integration of financial services along sectoral lines. In 2009, there were already strong working relations between the staff inside the Lamfalussy Committees and the staff inside the units of DG Markt working on financial services (interviews with members of the Committees' secretariats and officials inside DG Markt). But there were no legal links between the Commission and the secretariats in the Lamfalussy Committee; the latter were national secretariats with seconded officials from the National Competent Authorities (NCAs) in member states. Transforming the Lamfalussy Committees into European legal entities similar to the agency model at EU level would be seen as strengthening the Commission's capacity for regulatory output, and in particular DG Markt's capacity.

Significantly, most people interviewed refer to the ESAs as "agencies" and often compare the ESAs' governance structures and role to other agencies set up at European level (most commonly with the European medicine and chemical agencies). Furthermore, a comment from one Commission official tends to substantiate power-maximization concerns, albeit by stealth. By choosing a legal and governance template that would avoid treaty change, they were also able to secure DG Markt's goal of transforming the Lamfalussy Committees into European agencies:

Commission official: As you know we have European agencies in all sorts of fields and these authorities are decentralised regulatory authorities like the ones we have for the medicine sector, the chemical sector, you name it. So that was a legal type of entity that was available for us.

Interviewer: A sort of blueprint?

Commission official: Yeah, exactly. That was something that was available without having to change the treaties for example which is something that we wanted to avoid. So we needed to find something readily available in terms of legal form."

For the Commission, the template of the European agency was both an institutional and legal template, readily available, that fitted with the political constraint of no treaty change but also ensured that DG Markt would increase its influence over the regulatory output and implementation in the area of financial supervision. This points to power-maximization concerns.

There is further evidence of power-maximization motivations in the more detailed proposals of the legislation. The proposals gave considerable institutional influence and decisional power to the Commission in a newly created ESFS, notably over the regulatory work of the ESAs and in matters of crisis prevention and enforcement. As already outlined, the ESFS was first presented as a concept for governance in the de Larosière report (See section 5.1.1.). I have already covered how the Commission used the recommendations of the expert group report to accelerate the transformation of the Lamfalussy Committees into European authorities as part of the ESFS. The legislative proposals also foresaw a central involvement of the Commission in both the governance structures of the ESAs, and in relation to formal control in matters of supervision. This suggests that the Commission may have aimed to extend its competences in the policy area of supervision and gain powers over NCAs directly.

Aside from transforming the Lamfalussy Committees into European legal entities, the legislative proposals of September 2009 provided for strong regulatory powers in the ESAs. Three articles gave the Commission strong powers in the newly created ESFS. First, Article 7 of the ESA legislative proposals related to the power of the ESAs to adopt technical and implementing standards; drafted by the ESAs, they would then be rubber stamped by the Commission (COM (2009) 501 Final 2009, 24). The Commission maintained the power to adopt the standards only partially or reject them, provided it explained why to the relevant ESA. There were legal grounds for giving the Commission the last word on the implementing and technical standards, the so-called “Meroni argument”. I come back to this point in the section on the type of internal knowledge that the Commission mobilised for the drafting, to investigate whether instrumental concerns may also have driven this aspect of the legislative proposals (see section 1.1.1). The aim of implementing and technical standards was to create a Single Rule Book to ensure consistent rules and standards across the Single

Market in financial services. The de Larosière Report had recognised the problem of “lack of consistent set of core rules” across the Single Market. But the report remained vague in its recommendations and did not mention the need for a Single Rule Book. Recommendation number 10 dealt with tackling the absence of a “truly harmonised set of core rules in the EU” and advised two measures using very soft language:

Member States and the European Parliament should avoid in the future legislation that permits inconsistent transposition and application;

the Commission and the level 3 Committees should identify those national exceptions, the removal of which would improve the functioning of the single financial market; (De Larosière 2009, 29)

A set of core rules, though highlighted as something that needed addressing, wasn’t considered an urgent matter in order to shore up the financial system as a whole. It was considered a specific European issue to do with the way integration in financial services had developed in the EU. Despite this, the Commission included these powers in the legislative proposals and kept some form of control over implementing and technical standards.

The de Larosière Report had clearly identified the lack of a crisis warning mechanism at European level and the lack of coercive powers to intervene in the case of disputes between national supervisory authorities as problems that needed addressing in the ESFS. The legislative proposals of September 2009 gave the Commission the lion’s share of arbitration power in terms of crisis warning mechanism and dispute settlement.

Article 9 of the ESA legislative proposals stipulated that the Commission would also play a role in the enforcement mechanism in the case of non-application of Community law. If, after an initial step taken by the ESA to warn the NCA that it was not complying, the NCA had failed to take action, the Commission could then take a Decision requiring that the NCA apply the regulation. If, after a period of a maximum of four months, the NCA still had not applied the regulation, the ESA could intervene

directly in the financial institution (COM (2009) 501 Final 2009, 25–26). This proposal was an answer to issues of non-compliance with community law. The idea was to give some coercive powers to the ESAs that would guarantee more consistent application and implementation of European legislation and standards. The problem of inconsistent implementation of EU law was identified in the de Larosière Report. But the report recognised that this was not new to the crisis and was something that was specific to the EU and the result of the integration process of the Single Market in financial services: “most of these issues [of current regulatory inconsistencies] relate to the effectiveness of the single financial market more than to the crisis” (De Larosière 2009a, 27). Therefore, Article 9, in providing the ESAs and the Commission with a mechanism to ensure consistent implementation of community law, may have reflected the Commission’s expansionist agenda in relation to the Single Market process, something that it would naturally view as falling within the scope of its competences. I look more into the concerns of DG Markt about the Single Market process in the next section with the view of understanding better what goals underpin the expansionist motivations of the Commission (section 1.1.)

Perhaps the more surprising of the powers that was foreseen for the Commission in the ESFS was in Article 10. It foresaw that the Commission was the legal entity that would determine the existence of an emergency situation. Once it had identified the existence of an emergency situation, it would trigger the power of the relevant ESA to intervene first with NCAs to take action and, if ignored, the Authority may adopt an individual decision addressed to a financial institution (COM (2009) 501 Final 2009, 26–27). This new power meant that the Commission would take on supervisory tasks, not simply regulatory competences, in relation to the reforms. This proposal was all the more surprising because officials were clear in interviews that the Commission does not have supervisory powers and that it has no ambition to do supervisory work. When answering a question about Colleges of Supervisors, an official inside DG Markt clearly indicated that the Commission does not exercise any supervisory tasks: “We don’t go there as the Commission. We are not supervisors at all.” (Interview Commission 3).

Giving the Commission this decisional power may have reflected the need to include a mechanism for emergency situations that was consistent with the overall structure of the ESFS conceived in the proposals. This would reflect more instrumental concerns because it would indicate that the proposal took on board the recommendation of the de Larosière Report to include a mechanism for an emergency situation, whilst it ensured consistency with the overall structure of the ESFS in the legislative proposals. I investigate evidence of instrumental concerns in how the Commission used internal knowledge later in the Chapter (section 1.1.1). Alternatively, it may also be the result of the Commission's internal organizational understanding and knowledge – or lack of knowledge – about micro-prudential supervision. An official who has experience both working in DG Markt and as a supervisor explained in our interview that the Commission does not really know much about how supervision works and views it from a regulatory perspective (Interview with ESMA official). From this perspective, the Commission's expansionist agenda in matters of supervision would reflect a rules-based understanding of supervision: provided the right rules are in place and the Commission has the powers to ensure consistent implementation, the system will function efficiently. From this perspective, ordoliberal ideas (Blyth 2002) about supervisory governance may be more constitutive of DG Markt's preferences than power or influence maximization derived from a narrower understanding of the DG as regulatory entrepreneurs (Pollack 2003, 2007), intent on increasing their influence. This requires unpicking the expansionist ambitions of the DG.

Overall, there is strong evidence that the Commission used the recommendations of the expert group report to increase the organization's decisional powers in matters of crisis prevention and enforcement of sanctions directly over NCAs, which suggest power-maximization motivations. It also used the expert group report strategically to push for an institutional set-up – the three European Authorities – that would place the Commission in a stronger position to keep control over the production of regulation in relation to supervisory matters, in particular for DG Markt. Nevertheless, evidence hints at the possibility that the Commission's expansionist agenda may stem from a

set of substantive goals to preserve or further the Single Market in financial services. This would embed the expansionist agenda in a broader set of beliefs about the role of the Commission. In the next section, I look into how those inside the Commission speak of the reforms to investigate this further.

5.2 Unpicking the expansionist ambitions: organizational goals in relation to the Single Market process

5.2.1 Coupling an existing solution to a new problem

In relation to the transformation of the Lamfalussy Committees into European authorities, many members of DG Markt who were interviewed framed the crisis as “an opportunity”, as the moment that presented the opportunity for DG Markt to push for ideas that it had been keen on developing for a while. Officials inside the Commission and in particular DG Markt were explicit in interviews in 2016 and 2017 about the expansionist goals of the Commission to increase European regulatory powers for supervision. They were also public about their expansionist goals at the time of the reforms. After the member states had largely endorsed the principles of the de Larosi re Report’s recommendations at the March European Council, David Wright explained in an interview he gave to the European Commission’s newsletter on Single Market News in April 2009 that:

Many people in DG Markt were the organisers and writers of the report. This is a big move forward for us. Many things we have been wanting to do for many years are now possible. Both our March report and the de Larosi re report have judged the political and the possible very well in my opinion. (Wright 2009).

As pointed out in Chapter Four (4.1.), there had been an ongoing reflection since the mid-1990s on strengthening the powers of the Lamfalussy Committees and on giving

them a European mandate (COM 727 final 2007; COM(2005) 629 final 2005; CESR 2004; IIMG 2007). Indeed, according to many officials interviewed, the idea of strengthening the Lamfalussy Committees with a European mandate and legally binding powers, and introducing qualified majority voting as a means to achieve more convergence, better enforcement and more integrated supervisory rules and practices, were all “floated” before the crisis. This suggests that services inside the Commission had been reflecting on the opportunity for expanding European-wide powers for supervision, but were constrained in moving forward by a political context and perhaps ideological dispositions that were not favourable to increasing regulatory powers, including internally (see Chapter 4.2. for Commissioner McCreevy’s position). This is corroborated by officials interviewed inside DG Markt: “From the point of view of the Commission, the idea of creating European Agencies had been floating around for some time. The crisis was the window of opportunity” (Interview Commission 9). Another official was even more explicit about the ambitions to make the European level the driver in decision-making: “Committee structure was bottom-up. We wanted to go to a decision-making that was top-down. The idea was floated [before the crisis] but didn’t have the political support. The political support came from the crisis” (Interview Commission 10).

These explicit expansionist motivations may, in the first instance, suggest power-maximization motivations: officials inside the Commission seized the opportunity of a political window that opened with the crisis to push for an increase in their competences and influence over European supervision. There is a strategic understanding of the political context that presents the opportunity to exploit a window of opportunity to push for ideas that existed before the Global Financial Crisis. The Commissioner for Economic and Monetary affairs at the time, Joaquin Almunia, expresses this very clearly in speech he gave in January 2009 in front of the representatives from the financial industry and stakeholders in Brussels: “The crisis has offered us a rare combination of political will and consensus to eradicate the root causes of this catastrophe. This is an opportunity that must not be wasted.” (Almunia 2009a). I now turn to how the Commission frames its expansionist agenda in interviews.

In interviews, the explicit expansionist goals internally were usually referred to in the framework of the Single Market process in financial services. Officials inside DG Markt viewed the expansion of the Commission's competences in relation to the integration of financial services as part of a continuity in thinking launched with the Lamfalussy process in 2001. One official explained this in clear terms:

The idea came in the framework of the discussions in Lamfalussy Report, to suggest that supervision should maybe also be more integrated [...] Now why did the Commission get involved? Because the goal was really to create an integrated market in financial services. [...] so that was the rationale. That is why the Commission got involved. But of course it changed over time, because this idea was before the crisis. So, because the crisis, it made sense to strive to create a more integrated market. When the crisis came, the focus shifted. And in the end, the idea [of an integrated market] became *the* answer to the crisis, that we should discuss more, that there should be more contact between the national competent authorities on supervisory matters. (Interview Commission 4, emphasis was pronounced in the interview)

Another official inside DG Markt described combining financial stability and increasing the regulatory powers of the Lamfalussy Committees as “two streams of thought [that] came together with the ESAs’ regulation proposals”:

Two streams of thought came together with the ESAs’ regulation proposals the first was the ongoing thinking within the Commission about the regulatory Committees of the Lamfalussy process. Inside the DG [Markt], they were struggling with the technical aspects of the work of the Committees. The second [stream] was the need for single supervision that emerged after the crisis of 2008. (Interview Commission 10).

The first of the two streams of thought was widespread inside DG Markt before the crisis whereas the other stream – single supervision and systemic dimensions of financial stability – really became a concern after the beginning of the Global Financial

Crisis. These comments suggest that an existing solution was coupled to a new problem and reframed to suit the problem at hand, in a process akin to what John Kingdon has labelled “recombination” (Kingdon 1995, 201). Thus, rather than being driven by problem-identification and developing a solution, or an opportunity to expand influence and power, decision-making is also driven by the existence of a ready-available solution and the capacity of the organization to reinterpret this solution as a response to a new problem (Olsen and March 1972).

The manner in which the Commission linked the salient issue of “financial stability” with the ongoing thinking on financial market integration in the framework of the Single Market process suggests that it may have used the de Larosière Report to substantiate existing ideas about strengthening the Single Market in financial services. In the 2007 Commission Communication on the review of the Lamfalussy process, the central rationale for increasing the powers of the Lamfalussy Committees was to continue consolidating the regulatory framework for supervision in order to achieve a well-functioning Single Market in financial services:

A dynamic and healthy financial sector is crucial for the proper functioning of the European economy and for global competitiveness. Financial services are extremely important for European consumers and companies, large and small, who want a wide range of financing options and to rely on high-quality and secure products and institutions that are well managed and supervised. This requires a solid European framework for the regulation and supervision of the financial sector. (COM 727 final 2007, 2)

This rationale was consistent with the market-making rationale of the Lamfalussy report in 2001: “The European Union has no divine right to the benefits of an integrated financial market. It has to capture those benefits by building an integrated European market” (introduction of Lamfalussy 2001, 8). The process towards a Single Market in financial services underpinned the rationale for increased supervisory convergence and standardisation of rules and regulations in the Lamfalussy Report. The context at the time was the introduction of the euro and considerable technological innovations

in the financial sector. The aim was to compete with the US and reap the benefits of an open market for consumers and investors, a central proposition of the Single Market project. In the de Larosière Report, the focus was on “repairing” the system (Avant-Propos of the report), not on further building the Single Market. The lack of consistent rules across the Single Market is considered an additional challenge to the well-functioning of the European financial system, but only one of the many aspects that need to be tackled in order to address the deficiencies in regulation and supervision more generally and perhaps not the most urgent:

99) While the above areas for regulatory repair are relevant for all major jurisdictions in the world, and should be addressed internationally, Europe suffers from an additional problem in comparison to all single jurisdictions: the lack of a consistent set of rules.

100) An efficient Single Market should have a harmonised set of core rules. (De Larosière 2009, 27)

The report went on to recognise that “most of these issues [of current regulatory inconsistencies] relate to the effectiveness of the single financial market more than to the crisis” (De Larosière 2009a, 27). After the crisis, the rationale for increased integration of supervisory rules became closely linked to guaranteeing financial stability (related to crisis prevention and systemic stability). The table below indicates the frequency of the references to financial stability (or systemic stability) in five documents from 2005 to the Commission Communication of May 2009 that all relate to reforming or reviewing the Lamfalussy process and the role of the Lamfalussy

Committees.

Document	Refs
White Paper on Financial Services Policy 2005-2010 (2005)	5
IIMG Final Report on Lamfalussy process (Oct 2007)	4
Commission Communication on the review of Lamfalussy process (Nov 2007)	2
De Larosière report (Feb 2009)	60
Commission Communication "Reforming European Supervision" (May 2009) ¹	27

The context of the crisis explains the considerable increase in the focus on financial stability – it was referred to as a “public good” in the de Larosière Report (De Larosière 2009, 21). When it put forward the reforms to transform the Lamfalussy Committees into authorities, the Commission linked financial stability to the process of integration of financial services in the framework of the Single Market project. The May 2009 Communication coupled the Single Market process with financial stability. Financial stability and financial market integration became two sides of the same coin:

The financial and economic crisis has created risks to the stability of the internal market. Restoring and maintaining a stable and reliable financial system is an absolute prerequisite to preserving trust and coherence in the internal market, hence to preserve and improve the conditions for the establishment of a fully integrated and functioning internal market in the field of financial services. [...] Financial integration and stability are therefore mutually reinforcing. (COM 252 final 2009, 14)

After the crisis, answers to problems of convergence, compliance and implementation to do with the Single Market process became answers to both integration and stability of the financial system more broadly. As one official inside DG Markt pointed out:

It was not that the fundamentally underlying things were basically changed, they were just exposed in a broad manner and that created in a way the momentum to actually do what probably in many – in a number of circles was already before seen as a necessary step. (Interview Commission 7)

By coupling financial stability, financial integration and the Single Market, the Commission addressed the weaknesses highlighted by the crisis and provided a system that was in line with the aim of a stable and Single European Market for financial services. This suggests that the Commission at the time viewed the reforms as part of the ongoing integration process of financial services. One official who worked on drafting the legislative proposals confirmed that for the ESAs, the rationale was furthering the internal market rather than explicitly responding to failures that caused the crisis:

At the level of the ESAs, it was a Single Market driver whereas the Banking Union, the driver was not Single Market. The driver was ‘we have national supervision in the Euro area and it is causing problems because there are so diverse approaches and this is now having a knock on effect in terms of the credibility of our common sovereign’. So it was a slightly different driver. (Interview Commission 5)

This comment shows the rationale behind the creation of the ESAs inside the Commission and the contrast with the Banking Union, which was a common currency problem. The Commission appears to have understood the solution developed to further integration as a response to the crisis. The capacity of the Commission, and in particular DG Markt, to reinterpret the solution in light of the new problems highlighted by the crisis was underpinned by a shared internal belief about the benefits of the Single Market process. From this perspective, the internal narrative about the Single Market process represents something akin to an organizational myth or cognitive map (Weick, 1985), that framed the way the DG Markt made sense of its role, and provided guidance for action.

5.2.2 Concerns about the broader commitment to the Single Market process

Though there is evidence of strategic behaviour, it does not necessarily follow from power-maximization motivations to exploit a window of opportunity. At the time of the ESA reforms, there were also concerns about how the crisis may weaken the Single Market in financial services, which suggests that the Commission may have been driven by a richer set of substantive goals than securing and increasing its influence. Going back to the wording in the May 2009 Communication, the emphasis on restoring “trust and coherence in the internal market” reflected a concern at the time about how reactions to the crisis may undermine the Single Market. McCreevy mentioned the temptation to think nationally in a speech in May 2009: “You would think the present crisis would have spurred ministers and supervisors to find better ways of working together. But I am afraid the crisis has had an opposite effect. It has reinforced the tendency for supervisors to think nationally.” (McCreevy, May 2009). David Wright explained in more detail in spring 2009 what was happening and how the Commission would aim to preserve the Single Market’s achievements against “defensive reactions”:

We are not going to put up with discrimination or anti-competitive behaviour. We have to be very tough. For example, we’re seeing attacks now from various Member States on the whole basis of establishment for banks in the European Union. Some Member States are beginning to attack the branching concept, which is again the right of establishment under the Treaties and the basis of all our financial services passports. [...] Is it protectionism? Well I suppose there are degrees of it, but I would describe it more as knee-jerk defensive reactions. But on anything that is clearly protectionist or discriminatory against the Treaties of course we would have to take out infringement procedures. (David Wright, April 2009)

David Wright’s words reflected the worry at the time that countries would go for the *wrong* answer and seize the opportunity of the crisis to protect their own industries out

of an ideological belief. The Commission was concerned that faith in the system and principles of an integrated and open market were being undermined. Talking about the Single Market more generally, the Commissioner for Competition at the time, Neelie Kroes, also framed the Commission's role as protecting the system:

The only right answer is to explain what achievements are worth keeping [...]

Number one in my list: making sure we don't "throw the baby out with the bathwater". The European Single Market is our crown jewel. It is a real positive achievement that has revolutionized how we shop and do business and it has made us richer.

But as you have seen, we cannot be complacent that the Single Market will survive without our help. For that reason, you can be certain that the European Commission will always say no to protectionism. We owe that to the taxpayers of Europe. (Kroes 2009)

These concerns hint at the possibility that by pushing for a solution that officials inside DG Markt had been wanting to see implemented for a few years – the strengthening of the regulatory powers of the Lamfalussy Committees – the Commission may also have been acting according to what it deemed necessary to do to preserve and strengthen a system. And in doing so, the Commission was protecting member states against their own temptations or “knee jerk defensive reactions” inside some of the member states or amongst national supervisors.

The flaws in the system that had been highlighted by the crisis and that caused financial stability problems called for preserving and strengthening the internal market. In response to the broader problems in the system, the *right* thing to do was to reinforce the rules at European level:

Because with this crisis, we were exposed to a lot of problems with the prudential rules, and that is also what de Larosière was about. It was not just about the supervisory bit, it was also about the capital standards and other things. And there was evidence that markets or banks were gaming, they were actually gaming differences in rules to basically benefit from lower standards. And I think that was what

was exposed through this breakdown came. And of course the second reason was that there were quite a lot of people in the Commission who actually thought that this would be necessary to make further steps on this since a long time and also in academia. But there was no political momentum. Then there was this crisis that showed the need to go further also to a political audience and that was basically seized as a moment. (Interview Commission 7)

This person understood the proposals to expand European supervisory powers as a good answer to the problems highlighted by the crisis, which suggests instrumental concerns rather than narrow power expansionist motivations. The person also explains that the crisis “*showed* the need to go further” which downplays a little the opportunistic assumptions of power-maximization concerns. This suggests that the Commission believed it was stepping up to provide member states with an answer. And as this quote highlights, understanding an expansion of European rules and powers as the right thing to do does not exclude strategic understanding of the context of crisis and the window it presented for pushing forward with integration. One very senior official inside DG Markt explained that in 2008-2009, member states did not understand that they needed to go further at the time. The quote illustrates how the Commission combined the “right thing to do” with a strategic assessment of what was politically feasible at the time:

With all the ESAs’ stronger powers, direct supervision in some cases – none of this survived the Council and again because there was no sense of urgency so the leap that became possible in 2012 because we nearly died in the summer of 2011, was also not really envisageable in 2008-2009. Of course it was the *right thing to do*, but again as very often, the member states didn’t see why, they didn’t see that the situation was so bad, they needed to do the big leap that they were sort of instinctively not willing to do. Member states never [emphasis on word] abandon sovereign power unless they think they have no choice. That is the sad story of the European construction. And this is why also it progresses only through crises. (Commission Interview 11)

This quote highlights the organizational belief that crises *show* member states the need to go further in terms of integration and delegation of powers to the European level. It is less about exploiting a window of opportunity in a narrow sense. From the perspective of this person, the answer to a real crisis is invariably more integration, even though it takes some convincing of the member states that this is the right answer; that is where the strategic work of the Commission comes in.

Evidence suggests that the Commission, and in particular DG Markt, viewed the crisis as an opportunity to carry out its views on strengthening the Single Market. It also viewed its work to support and steer the process of integration as a response to the flaws highlighted by the crisis. Though the crisis is talked of as a window of opportunity that made it possible for the Commission, and in particular DG Markt, to move forward with ideas it had been wanting to implement before the crisis, the opportunistic assumptions of a power-maximization reading of this behaviour need to be nuanced. Officials also viewed the crisis as a moment that proved to member states that action on reinforcing the powers of the Lamfalussy Committees was long overdue. In proposing the ESA reforms, the Commission appeared to be putting forward what it believed was the right or good answer and not simply a proposal to reinforce the organization's powers and influence. This suggests that the Commission's expansionist agenda may also have been driven by a belief that it was stepping up to strengthen the Union as a whole in spite of the more reactionary dispositions of member states. Furthermore, though evidence suggests that the Commission, and in particular DG Markt, engaged in strategic behaviour to preserve and expand its influence, concerns about the broader commitment to the Single Market process inside the Commission, including at the level of the College, suggest that the Commission was motivated by a richer set of substantive goals than expanding its powers over the national level in matters of supervision.

There is, however, another aspect of the drafting of the legislative proposals that needs to be investigated: the degree to which DG Markt was steering the process internally, and the profiles of the officials involved. This will provide insight into the kind of

knowledge the Commission was mobilising internally during the drafting phase. The purpose is to investigate the possibility of power-maximization concerns at the level of DG Markt, focusing more specifically on relations inside the Commission, vis a vis other DGs.

5.3 Actors involved internally

The suggestion that there is a strong identity at the level of DG Markt and that it derives prestige from its importance in the Commission is highlighted by studies on the DG (Hartlapp, Metz, and Rauh 2014) and on organisational culture inside the Commission (McDonald 1997; Ban 2013; and see Chapter Two, section 1.1.1). There is a need to look into whether the DG sought to steer the process to enhance its powers or influence, to deliver the best solution given the circumstances, or whether it was simply mirroring organizational goals about further the single market process in financial services. Furthermore, identifying the profiles of those involved internally may yield further information about which motivations underpinned action: were they political profiles, officials with the capacity to influence and yield informal power, perhaps seeking to gain personal power and influence too; were those involved technically skilled, recruited because of the knowledge of the technical aspects or because they were able to coordinate the right skills needed for delivering an effective solution; finally, it is necessary to look at the level of seniority and longevity of service of those involved: the higher the seniority of those involved in steering the process the more organizational credibility concerns may have played a role, while longevity opens the possibility of officials having been socialised into the DG's culture.

5.3.1 Internal steering and knowledge mobilised: from the publication of the report to the publication of the legislative proposals

The drafting process consisted of all the steps of a standard way of proceeding for the production of legislative proposals at European level: the Commission issued two Communications (one on the 4th of March and one of the 27th of May) outlining its

plans for reforming the institutional architecture for governing supervision at European level. It held open consultations on both these Communications and published an impact assessment with the May 2009 Communication. Following the May 2009 Communication, the Ecofin Council on the 9th of June endorsed the main proposals in the communication, including that the Commission should come forward with legislative proposals in autumn 2009 (ECOFIN 2009). And as a result, the Commission published the legislative proposals in September 2009 (see Annex 1: Sequence of the Decision-making process).

The first observation with regards the steering of the drafting process inside the Commission is that the sequence is split into two phases: the first phase starts with the publication of the de Larosière Report, late February 2009, up until the Ecofin Council on the 9th of June 2009 at which the member states agreed to the proposals put forward in the May 2009 Communication, and to the Commission working on legislative proposals to create the ESFS; and the second phase runs for the June Council Conclusions to the publication of the legislative proposals in September 2009. During the first phase, Martin Merlin, who had been on the de Larosière secretariat, returned to DG Markt services and coordinated a small team of policy officers inside DG Markt. This team drafted a large part of the May 2009 Communication and the accompanying impact assessment (interviews with officials). This suggests power-maximization concerns, with DG Markt having positioned itself by playing a prominent role on the expert group secretariat. It was able to take this influential positioning forward, keeping control of the drafting and sequencing in the Commission's follow-up to the expert group's report.

Furthermore, as previously discussed, the Commission had somewhat pre-empted the conclusions of the de Larosière Report with its January 2009 Decisions to enhance the Lamfalussy Committees' role and increase their budgets. In order to manage this, DG Markt set up a small team inside its services to deal with the logistics of attributing a grant to the Lamfalussy Committees in January 2009. To carry out the work, DG Markt recruited a contractual agent whose profile was technical and who had experience of managing one-off grants to European agencies (Interview Commission 11). This may suggest instrumental concerns: publishing a Decision to allow for a swift increase in

the budgetary capacity of the Lamfalussy Committees, given the context, points to instrumental concerns to do with the indicator on timing. Indeed, swift action linked to the need to provide a workable and quick solution given an assessment of the context would indicate instrumental concerns.

Very soon after the publication of the de Larosi re Report, this small team became central in delivering the logistical aspects of transforming the Committees into European agencies and they were required to work very swiftly. The team inside DG Markt had six months to upgrade the Committees into European authorities, which, in the words of those involved, was “extremely short”: “with [name of colleague] we had to make sure that it happened at all costs. We had to deliver, full stop”. This set up – the small flexible and horizontal team – was a deviation from formal processes and a rare occurrence in such a hierarchical organization. Staff reported directly to the highest echelons of the organization and were given a high level of flexibility to manage the transition inside the Lamfalussy Committees’ secretariats from national entities to European agencies. As one of the few who worked in the team explained, “In DG Markt it is very rare that you sit with the Director” – the person was referring to the Director-General of DG Markt, Jorgen Holmquist. Furthermore, the person in charge of this small logistics team was Olivier Salles who collaborated very closely with Martin Merlin. Informal steering, the tight knit group and involvement of the higher echelons of DG Markt strongly points to power-maximization motivations inside DG Markt. This is even more significant in light of the analysis in section 5.1.2 of this chapter: first, the analysis showed that creating three authorities on the agency model may have been a means for DG Markt to increase its influence. And secondly, the Commission proposed to accelerate the process of transforming the Lamfalussy Committees into Authorities in the March 2009 and May 2009 Communications, the contents of which was overseen in large part by Martin Merlin and officials inside DG Markt.

At the second stage of the drafting process, once the Council had agreed on the proposals in the May 2009 Communication, the picture is a rather different one, and there is evidence of instrumental concerns. The Secretariat-General coordinated the work on the drafting of the legislative proposals and gathered the necessary expertise

from the different DGs and units relevant for producing the legislative proposals. The cabinet of the President was also involved in the drafting process whereas McCreevy's cabinet "just let them get on with the work" and "didn't interfere" according to interviewees. A stronger involvement of the Secretariat-General was a feature that developed under the Barroso Presidencies (Peterson 2017) in contrast to previous ones in which head of cabinets of the Commissioners played a central coordination role. The involvement of the President's cabinet in the drafting does seem to suggest, however, that the President still considered the reforms of importance, ten months after he set up the expert group (see Chapter Four, section 4.2; Chapter Six investigates whether credibility concerns persisted after the autumn 2008 for the Commission's leadership). Finally, the absence of any involvement of the Commissioner for Internal Market does not mean that high profile officials inside DG Markt weren't involved. Indeed, it transpired in interviews that the drafting team, coordinated in the Secretariat-General, was more or less in daily contact with David Wright, the deputy Director-General of DG, key instigator of the idea of the expert group and rapporteur on the secretariat. Once again, this points to an important, and somewhat informal, role of DG Markt in the steering of the drafting process, and suggests power-maximization concerns.

However, the way in which the drafting was organized and the type of internal knowledge involved suggests instrumental concerns aimed at coordinating and delivering the most workable solution. The profile of the staff involved in drafting the legislative proposals had the knowledge and expertise needed to deliver. The team that drafted the legislative proposals included seconded national experts. With legal and technical profiles, having worked at national level with supervisory authorities or finance ministries, they provided expertise that was relevant to developing a sound solution. Furthermore, they weren't recruited as representatives from the larger, more influential member states on matters of supervision. This would suggest that their involvement was geared towards delivering the best solution rather than securing buy-in from member states – the latter would instead have indicated power-maximization concerns.

The drafting team met under the aegis of the Secretariat-General that coordinated the drafting and made sure that all the different facets of the contents were covered and addressed: “I mean testing it with the perspective first of “is it legal, is it institutionally correct” – the Meroni type argument, and then “is it politically feasible” (Interview Commission 5). The words of this official, describing the way they worked to calibrate the legislative proposals, highlight that constraints were not only about legal and technical issues, but were perceived as political too. First, from a legal perspective, the expertise mobilised internally was geared to delivering the practical and feasible solutions building on the de Larosière Report. The choice of European agencies as a template led to considerable adjustment of the detailed contents of the proposals to seek out compromises and ensure legal compliance around the ESAs’ powers to adopt implementing and technical standards. The “Meroni type argument” mentioned by an official describing their work on the drafts, refers to whether an arm’s length executive agency can adopt these standards (see section 5.1.2. of this chapter for the details).

Secondly, in terms of “testing political feasibility”, the way the officials describe their work is akin to “astute instrumentalism” to adjust the contents of the legislative proposals based on an assessment of the constraints. This process of calibration of the political feasibility of the proposals is described by officials interviewed as being the normal way of proceeding inside the Commission. The staff involved in the drafting of the proposals spoke of their work on testing political feasibility as if they had been brokers, striking a balance between diverse and sometimes opposing views on what should be included in the reforms. One person mentioned striking a balance between different European legislators and how the Commission managed the diverging views of the EP and the Council. The official mentioned:

The British and the Germans want[ed] to limit the ESAs’ powers... the parliament wanted to go much further. They wanted to move towards direct supervision in certain areas. The Commission was a bit in between. That was the main question: on the one hand, the fiscal clauses, and on the other hand, how far you would go already towards integrated supervision and direct supervision (Interview Commission 7).

Another official spoke of the divergences between the different member states and the problem of Eurozone versus non-Eurozone members:

The Eurozone countries [...] were of course seeing the need to have the harmonised standards because otherwise they would have competitive distortions or risks that weren't being managed which affected their [emphasis on word] currency. But of course you had quite a lot of member states who were not in the currency who didn't see it. Those tensions played all the way through. (Interview Commission 5)

This suggests that staff viewed their work as brokers, managing tensions between a number of conflicting and diverging interests.

Nevertheless, staff viewed their work on balancing the preferences of the member states not simply as related to the specific proposals, but as being part of a broader organizational goal to serve the general European interest. The same official referred to the overall mission of the Commission to “work in the European interest” when speaking of their work to make sure the proposals had a fair chance of being adopted and implemented:

We equally want proposals to have a chance of being adopted and implemented on the ground. And so weighing that and making sure that we try to find the right balance and some safeguards and checks for member states who had particular concerns or who needed reassurance – this is always part of the Commission's work. Because you know our mission under the Treaty is very easy: we work in the European interest. (Interview Commission 5)

This official describes the political work they do inside the Commission to bridge between different interests in order to deliver proposals that are realistically feasible and politically acceptable as “working in the European interest”. Another official explains in even clearer terms how unrealistic or unfeasible proposals would undermine the Commission's role in producing legislation:

It is natural that if your role is to produce legislation, then you don't expose yourself to proposals that are without any chance of success. In the end of day, the Commission internalises these reluctances from the member states and we speak systematically with the member states before putting out legislation. (Interview Commission 12)

This suggests that the credibility of the organization in delivering on its mission to serve the European interest may also be at stake if the proposals are not properly calibrated. Taking on board member states' reluctance is strategic behaviour to ensure that the Commission delivers a feasible solution; this suggests instrumental concerns. But delivering acceptable proposals is also viewed as a matter of credibility for the organization by many of the officials involved, not just as part of what needs to be done to deliver a solution in the narrower sense. In Chapter Six, I investigate further the extent to which the Commission, and in particular the President, perceived the need to produce ambitious, but acceptable legislative proposals in the wake of the de Larosière Report, as a matter of a credibility. Before moving to Chapter Six, the third and last empirical Chapter, the final section of this Chapter presents how officials described working together in interviews. The purpose is to gauge the degree to which "working in the European interests" drove collective action in the organization in relation to the ESAs, or whether it is rhetorical device to justify power-expansionist motives.

5.3.2 Working together to deliver a vision

A small number of actors involved inside DG Markt on the ESA reforms present profiles that are more political, with the skills to influence and the seniority to yield influence. The profiles of these actors may, *prima facie*, indicate power-maximization concerns to increase the influence of DG Markt and even personal prestige.

Though the name of the Director-General of DG Markt at the time, Jorgen Holmquist, did occasionally come up in interviews, everybody both inside and outside of the Commission, mentions the role played by the Deputy Director-General David Wright

in relation to the ESA reforms. His name came up time and time again (two-thirds of interviewees mention him and all but one does in the sample interviewed in the Commission). Wright played a central part in securing the chair of the expert group, Jacques de Larosière, and in setting up the expert group more generally in the autumn of 2008 (see Chapter 4, section 4.3.2). He continued to play a political role in calibrating the legislative proposals. He was often the face of the Commission in promoting and explaining the reforms in 2009 at events with industry and high level international experts and officials, sometimes in quite a political capacity. For instance, he gave the closing remarks alongside Commissioner for Economic Affairs Joaquín Almunia at a conference organised by the Commission in May 2009 on reforming financial supervision (COM 2009). And he spoke on a panel co-organized by the Brussels based think tank Bruegel and the IMF in March 2009 alongside four other speakers, three of whom had been members of the de Larosière expert group and the fourth being an independent expert who had participated on the IIMG report in 2007 (IMF/Bruegel 2009). His political profile was established well before the ESA reforms. For instance, when he worked on the Lamfalussy report secretariat in 2000-2001, an article in the Financial Times in 2001 reported on German suspicions that David Wright was influencing the contents.

Another name that was often mentioned, though not as systemically as David Wright, was Martin Merlin. Though less senior, he already had quite a political profile having worked as assistant to the Director-General of DG Markt and then in McCreevy's cabinet between 2006 and 2008. He went straight from the cabinet to the High Level Expert Group secretariat and reintegrated the services inside DG Markt as head of Unit in charge of financial services, overseeing the drafting of the ESA legislative proposals. He published an independent journal article under his own name in January 2011, explaining the reforms to create the ESAs (Merlin 2011). He was described by one official inside DG Markt as “the master of ceremony”:

So the father of all that [ESAs] at technical level – because but as you know behind all those big political masters – it was de Larosière, it was Commissioner McCreevy, it was the Commission – there are also some real officials doing the effective work, and the

master of ceremony of all that was Martin Merlin. (Interview Commission 14)

The prominent role of these officials, and in particular of David Wright, strongly suggests power-maximization motivations inside DG Markt. Both officials, and David Wright in particular, appear to have promoted DG Markt and its preferences in setting the agenda and carrying out the ESA reform proposals. And both officials stood to gain a lot of visibility and influence inside the Commission thanks to their position on the secretariat of the expert group and the subsequent reforms. David Wright's political profile may have cost him the position of Director-General of DG Markt. In 2011, the UK government pushed for another British national and a number of people interviewed outside the Commission hinted more or less explicitly at the fact that Wright's entrepreneurial behaviour may have cost him the position, and resulted in his resignation in 2011. He did, however, become chairman of the International Organization of Securities Commission (IOSCO) for a term, before replacing Jacques de Larosi re as Chairman of Eurofi, a think tank working on financial services issues, in 2016.

However, their prominence also stems from their technical knowledge on the issue area, and from their longstanding service in the Commission and in DG Markt. David Wright's technical knowledge was lauded by members of the High Level Expert Group, and his experience on financial services spans decades in the Commission. His profile indicates the capacity to span different social worlds and the ability to negotiate the complex networks of actors needed to secure buy-in for reforms that were politically sensitive. But this does not necessarily entail that power-maximization motivations (alone) were at play. Both Wright and Merlin were longstanding members of DG Markt, which opens the possibility that they may have been acting according to internal *beliefs* about the role and mission of the organization. This would suggest a richer set of substantive goals than action driven by a calculation to exploit a situation in which they could position their DG – and presumably by extension themselves – towards increasing powers and influence.

David Wright had joined the Commission in 1977, was a member of the Delors think tank “Cellules de prospective” inside the Commission, before joining the Britton cabinet. In the late 1990s, he became adviser to President Santer and took on the files related to financial services. From March 2000 onwards, he rose through the ranks in DG Markt and was Deputy Director-General overlooking financial services policy in DG Markt at the time of the reforms. Martin Merlin had joined DG Markt in 1997. Though the profiles of these two officials who were so central to the ESA reforms suggests that action may have been motivated by power-maximization, longevity, in particular in the case of David Wright, also suggests that the ideas they were pushing may have been the product of strong socialisation processes inside the organization or DG Markt. Though this does not necessarily refute evidence of power-maximization motivations, it does suggest that the expansionist agenda carried out through the reforms to introduce the ESAs may be embedded in a broader set of organizational goals and beliefs about the role and mission of the Commission held by longstanding members of staff inside DG Markt. This tends to substantiate the analysis of section 5.2 in this chapter: a richer set of substantive goals in relation to the Single Market process that is the result of a perception about the organization’s role and history.

Furthermore, other officials inside DG Markt, and sometimes in other services, spoke of their colleagues David Wright and Martin Merlin in very positive terms, highlighting the perceived importance and value of their work on the ESA reforms. David Wright was called “a great man” more than once in interviews and one official who worked under him said he was “the best director he had in the Commission” with a “phenomenal vision” and “was inspirational”. With regards Martin Merlin, an official talked of a joke they share: “he [Martin Merlin] is the father of ESAs because he conceptualised it and negotiated it politically with the Council [...] and the Commission was the godfather, so to speak”. A number of colleagues and staff inside the Commission did not perceive these officials as operating in a selfish and calculating manner. They viewed them as people with a vision and took pride in having collaborated with these colleagues either on the ESA reforms or more generally, or acknowledged favourably their capacity for leadership, in particular in the case of David Wright.

More broadly, a number of the people I interviewed who worked on these proposals or on post Global Financial Crisis reforms in DG Markt at the time showed enthusiasm for the work they had done, and took pride in the Commission's achievements. Some describe 2008-2009 as "exciting times", and many refer to an occasion when they had to forego lunch, cut a holiday or week-end short, or worked until the early hours of the morning on some compromise at the G20. In relation to the ESA reforms, one person I interviewed who worked on the logistics of transforming the Committees into European authorities said that it was an "extraordinary situation" and "a very exhilarating job". The enthusiasm with which staff spoke of their work and the Commission's achievements extended beyond the ESA reforms. Many of the people I interviewed spontaneously mentioned the work done in regulating financial services once Michel Barnier replaced Charlie McCreevy as Commissioner for Internal Market from 2010 to 2015. They referred to the "famous Barnier list" of 42 pieces of legislation adopted on regulating and supervising the financial sector. One person even stood up and unpinned the list of legislation from the wall above their desk to show me the list. Another mentioned the picture that was taken of Michel Barnier showing the printed list to the Pope Benedikt XVI in 2014 at a meeting in Rome.

After one person mentioned the "famous Barnier list", I asked whether they thought it would have been possible without the ESAs' support. After a long moment's reflection, the person answered:

That is a very good question. [...] We made the proposals and then we drove the negotiations in the Parliament and Council which was a very intense process with all these pieces of legislation. Would it have been possible without the ESAs? I presume yes, but what was good was that when we were drafting the legislation and we were negotiating we knew that there was someone that could then do the second step, that could do the delegated acts and implementing acts. You know, we would have a different kind of expertise and that there was another body in Europe that would provide that technical expertise. So, would we have done the same if we hadn't had the

ESAs? Maybe not. Could we have legislated without the ESAs? Yes.
That would be the answer. (Interview Commission 6)

From this perspective, the proliferation of regulation on supervisory matters under the Barnier Commission, and the subsequent increase in competences of DG Markt, was supported by the expertise, the increase in staff, and the powers to develop implementing and technical standards in the three ESAs. The ESA reforms did indeed generate an increase in the overall *capacity* for regulatory output at European level. But for those involved in working on the ESA reforms and subsequent legislation, they viewed their work as delivering the necessary answers to shore up the financial system post Global Financial Crisis, and promote the Single Market; they viewed the work they did in the Commission as acting in the best interest of the Union as a whole. This suggests behaviour that is driven by a shared understanding about the broader organizational goals, rather than a narrower set of motivations to “get on with the job” (instrumental concerns), or to increase the raw powers and influence of the Commission.

5.4 Conclusions

In terms of the indicator on substance, the manner in which the Commission used the expert group report and its recommendations strongly suggests power-maximization motivations. Calibration required a substantial amount of informal work to “test the proposals” with member states, in a bid to secure buy-in for the reforms. The Commission calibrated the general scope of the reforms based on political calculation: three authorities instead of a single European supervisor. Furthermore, the profile of those involved inside the Commission and the way they steered the drafting of the report, albeit in conjunction with the chair, suggests strong power-maximization motivations. This is confirmed by the manner in which the Commission then used the input of the de Larosière report to accelerate the transformation of the Lamfalussy Committees into European authorities, disregarding or strategically selecting aspects of the de Larosière report and the outcome of the consultations in the spring of 2009.

However, the work done to adjust the legal and political feasibility of the contents of the legislative proposals was perceived and described by staff as brokerage, in a bid to

carry out the task at hand, which suggests more instrumental concerns. This is corroborated by the knowledge mobilised internally and the way the Commission organized the work internally on drafting the legislative proposals (indicator on steering).

Finally, though, the Commission, and in particular officials inside DG Markt, were very explicit in expressing the expansionist ambitions of their services in relation to the role of the ESAs in the framework of the Single Market process in financial services. The actions of DG Markt mirror the internal organizational goals about further integrating the Single Market in financial services. The Commission officials explained their tactical behaviour drawing on learned experience and beliefs about how the process in financial integration takes place. They also talked of moving forwards with supervisory integration as being *the right thing to do* in a context in which European interests align with providing a solution to the supervisory failures of the crisis. This suggests that underpinning this tactical behaviour, there is a strong organizational ideology about the value of integration in financial services. It is considered the natural or logical development of a system of rules and regulations that benefit all member states, a process at the service of which the Commission places its expertise and work. The step by step approach, as the *modus operandi* for developing the internal market in financial services, represents a shared belief internally about how integration develops and provides a strong narrative that underpins organizational action. From this perspective, the explicit expansionist goals of the Commission in relation to the ESA reforms reflect a richer set of motivations than a rational assessment of how to expand competences at the expense of the national level, in a zero sum game for influence.

Chapter 6 Promoting the Reforms

Introduction

While Chapter Four analysed the agenda-setting stage of decision-making process, and Chapter Five engaged with the work inside the Commission on the drafting of the legislative proposals, this chapter focuses more on the manner in which Commission' interacts with external actors throughout the decision-making process. The first part of the analysis stretches back into the autumn of 2008 after the decision to set up the High Level Expert Group. The chapter then explores the Commission's actions once the de Larosière Report was published, on the 25th February 2009. In order to investigate the different approaches to motivations for action – instrumental, power-maximization, and legitimacy – I have selected a subset of three indicators that are relevant for the analysis of how the Commission interacts with external actors. The chapter analyses who the Commission wants to persuade and influence (audiences), and how the Commission organized and sequenced the decision-making process (steering) in relation to external actors. In conjunction with the analysis of steering, I also investigate the sequencing of the decision-making process in relation to the indicator on timing.

With regards the indicator on *audiences*, evidence of instrumental concerns should point towards the Commission targeting those needed for producing and delivering the best solution; communication would be orientated towards achieving delivery. Power-maximization concerns would yield evidence of the Commission focusing on those needed for buy-in for proposals that would expand the Commission's influence and powers. Dissemination and communication around the reforms may be minimal. Regarding legitimacy concerns, the Commission would emphasise its *capacity* to deliver the reforms and less how it goes about delivering the reforms in the communication around the reforms; talk is diffuse in content but strong in emphasising the need for action, and widely publicised.

Finally, regarding the indicator on *steering*, power-maximization concerns would yield evidence of strong formal and/or informal steering of the process, and control over the input in order to shape the content to satisfy ambitions to increase influence and resources. If driven by instrumental concerns, the Commission would steer the process to generate a response that is relevant to the problem; this suggests relatively strong oversight and steering to keep the process on track. Any interest in shaping the content would be driven by a concern to deliver a feasible and deliverable solution. Finally, legitimacy concerns would imply strong evidence of steering but with a purpose to signal that the organization is following established procedures; and steering would be driven by a concern to signal that the Commission is addressing the problem according to expected rules and perceived role expectations.

Regarding the indicator on *timing*, instrumental concerns would yield evidence of the Commission being concerned with pursuing an effective response, and thus allow sufficient time to develop the right decision. Power-maximization motivations would yield evidence of the Commission taking swift action to strategically position itself as a central player in the decision-making process and exploit the opportunity to increase its influence. Legitimacy concerns would be evidenced by swift action but driven by a concern to signal appropriate action, such as responding to the pressure to be seen to be taking action in a context of crisis.

The chapter is divided into three sections. First, I investigate how the Commission communicated around the High Level Expert Group Report in the lead up to its publication, and explore the importance of credibility concerns. The Second section focuses more on the Commission's communication after the publication of de Larosière Report and highlights the Commission's work in securing buy-in for the reforms, notably from member states. The third and final section complements the analysis of the indicator on audiences by providing insights on motivations that underpinned the Commission's steering and sequencing of the decision-making process.

6.1 The importance of demonstrating swift and decisive action

6.1.1 Being seen to be taking action

In Chapter Four, I detailed the circumstances and manner in which the Commission announced its decision to set up a High Level Expert Group on financial supervision in the EU. President Barroso announced his decision in a speech to the plenary of the European Parliament on the 8th of October 2008, in the midst of huge turmoil in the financial markets (See Chapter Four, section 4.2). From the onset, the Commission used its decision to demonstrate its capacity and willingness to take swift action in response to the problems being highlighted by the ongoing Global Financial Crisis. In the speech in question, Barroso referred multiple times to the need to *show* (used five times) that they – the Commission and more broadly the EU – were taking action:

We need to show that we have learnt the lessons needed to build the right regulatory framework to minimise the risks of future crises.

[...]

[...] Let me recap: - In the short term, we need to ensure that rescue operations and other public intervention take place in a coordinated and consistent European framework. ...

- For the medium term, there are three measures to highlight: last week's proposal on capital requirements, our forthcoming proposal on rating agencies, and a review of our 2004 recommendation on executive pay.

- And in the longer term, the High Level Group I have announced should lay the ground for building consensus on cross-border supervision.

All these measures, together with Member States acting in a coordinated and consistent manner, will show an EU addressing the real problems. The effect on confidence will be all the stronger if the institutions can show a resolution and a determination to act quickly.

(Barroso 2008a, 3–4 author's emphasis)

The concluding sentences of this speech extract suggest that the Commission was keen to demonstrate that the EU, and the Commission, were addressing “the real problems” and determined to “act quickly”, not only present the responses they were developing. Furthermore, the extract also suggests that the Commission’s decision to set up the High Level Expert Group was one of the responses that could showcase that the Commission was taken action in response to the depth and severity of the problems highlighted by the crisis.

In speeches in the autumn of 2008, Barroso repeatedly talks of how the EU, and the Commission, were showing their capacity to take decisive action and be leaders at the global level, and in doing so, he often refers to the High Level Expert Group. For instance, in a speech in the plenary of the Parliament on the 21st of October 2008, in which he refers to the future results of the High Level Expert Group as “important input for future action”, he concludes on the leadership capacity of the EU in times of crisis:

Europe shows its true colours in times of crisis:

In Georgia, Europe was able to stop a war.

In the financial crisis, Europe is leading the way towards a global solution. (Barroso 2008b)

He used equally hyperbolic language at the G20 Summit on the 15th of November 2008, in a speech in which he also underlined the EU leadership, though did not refer directly to the High Level Expert Group. The three introductory sentences reflect the general tone of the whole speech:

Today we have shown unity and decisive action.

This is indeed a historic moment.

We have begun laying the foundations for a new global governance:
for a global social market economy, with the European Union acting
as its precursor. (Barroso 2008c)

Three days later, in a speech to the Plenary in Strasbourg on the 18th of November 2008 at which Barroso presented the results of the G20 meeting, he claimed that “The

political initiative to open a global reform process of the financial system came from Europe”. He also referred to the expected results of the High Level Expert group and announced that “in 2009, the European Commission would take concrete measures to consolidate the regulatory framework of the European financial system and supervision of financial markets”, and that “the Commission will present the EP with the first recommendations of the High Level Expert Group before the Spring 2009 European Council Summit. (Barroso 2008d). Though this talk could be understood as messaging or rhetoric, the persistent and explicit reference to the EU being a leader may point to an underlying credibility concern.

Indeed, speaking without notes²⁸ on a panel at the Davos Annual Meeting end of January 2009, Barroso was tackled on the issue of the institutional arrangements in the EU on matters of financial stability. His answer reflected his concern to emphasise the solidity of the reputation of the Commission, and the capacity for action and leadership of the EU. In his introductory sentences, he also mentions that he personally took the initiative to set up a High Level Expert Group to reflect on supervision.

We can improve but we have very strong institutions. The European commission is a very strong institution that has established its reputation for 50 years. We have the ECB whose reputation is already well established even if it only has 10 years. So we have strong institutions. We are now also discussing some other arrangements in terms of supervision. This is work in progress. In fact, I have just established an independent group chaired by Jacques de Larosière that is going to present in this month of February a report ... But let's face it, in this crisis so far, the European Union reacted very positively. It was possible to have a quick response to the problems of the banks ... And globally, it was the European Union that took the leadership.

²⁸ The quote is a transcription for a video recording of the panel discussion entitled “The Economic Governance of Europe” at the Davos Annual Meeting 2009, and published online by the World Economic Forum: <https://www.youtube.com/watch?v=NyH4gCCTrdk>

Barroso's reference to Jacques de Larosière in his intervention is significant. He did not need to introduce Jacques de Larosière because, for his audience in Davos, he is a very well-known and respected person, former Director General of the IMF and former governor of the Central Bank in France. Mentioning de Larosière's name in relation to a discussion on the strength of EU institutions and supervisory governance, and in front of an audience of experts in international monetary governance, suggests a certain amount of concern to show that the Commission was working with prestigious and respected experts to tackle the issues in the EU. It suggests that the Commission was seeking to convince an audience composed of an influential transnational policy community of experts, that the Commission was a relevant actor internationally, able to show leadership and take decisive action.

The Commission continued to use hyperbolic language about the EU's leadership at global level in the spring 2009. This transpires in speeches and official documents after the publication of the High Level Expert Group Report, end of February 2009. The EU is described as an "inspiration for global partners", "a trend-setter", a "leader" in the G20 where "the EU is playing a leading role" (COM(2009) 114 final 2009, 4), "leading by example" (Barroso 2009b; Barroso 2009a) in shaping the post Global Financial Crisis governance landscape.

In the spring of 2009, the Commission appears to have used the ESA reforms as means to underline the importance of showing global partners that the EU was capable of acting swiftly and decisively. In a speech on the 7th May, McCreevy framed the supervisory reforms as being part of the EU's response to the G20 calls:

These two pillars [of the ESFS – ESAs and ESRB] allow for an evolutionary process to be developed for strengthening the European regulatory and supervisory framework. With this initiative, the EU is also responding to the G20 call to take action to build a stronger, more globally consistent, regulatory and supervisory system for the future of financial services (McCreevy 2009b).

The President of the Commission was even more explicit, and referred to the need to "show" the international partners through these reforms. In his speeches, he linked the

reforms to the architecture of supervision governance with the Commission and the EU's ability to show their capacity for collective action:

Financial markets are European and global, not national. Europe must show the collective political will to tackle future systemic risks before they get out of control.

This oversight will be done at macro level through the European Systemic Risk Council which will assess risks to the stability of the financial system as a whole.

At micro-level, the new European System of Financial Supervisors (ESFS) will enhance supervision of individual cross-border financial institutions. (Barroso, 25 February 2009)

A few weeks later, the President of the Commission reiterated the importance of showing the world and the G20 in particular the EU's capacity to act:

The Commission wants Europe to be the first to implement its G-20 commitments on cross-border supervision. Having first mover advantage will show our G20 partners that we expect them to go ahead with the same speed and determination. It will maximise Europe's influence in developing the global system. (Barroso, 30 March 2009).

Even after the legislative proposals were published in September 2009, this concern about showcasing the capacity of the EU to act decisively to its international partners thanks to the de Larosière Report and subsequent ESA reforms, remained as prominent. De Larosière, in his remarks at the Eurofi Conference on the 29th of September 2009, clearly referred to the need to act swiftly because of credibility issues too: "it is very important that the EU is seen by its G20 partners as getting its act together if we want to have an influence at a global level". At the same event, Mats Odell, representing the Swedish Rotating Presidency of the EU, relayed this narrative about the ESA reforms being an "excellent opportunity to show that the EU does have the capability to act swiftly and decisively" (Eurofi 2009). The reforms to the institutional architecture of supervision in the EU became one of the ways in which

the Commission could “show” the capacity of the Union to act swiftly and in a coordinated manner, delivering on commitments signed up to in the G20.

The references in speeches to the ESA reforms as a means to demonstrate EU leadership at international level are not only rhetoric. As reported by a number of people I interviewed, Barroso’s participation in the discussions to set up the G20 in the autumn of 2008, and in subsequent meetings, left a strong impression on the President. An official inside the Commission who worked closely with Barroso explained that “he was very much influenced by the G20”. Another explained that the G20 “helped Barroso get his head around the crisis”, i.e. make sense of the crisis. A third official explains that “Barroso was one of the people who was very much involved in the creation of the G20, and was very attached to the fact that the EU should be timely and effective in implementing the G20 commitments.” Not only did the President consider it important to show leadership at the international level, a number of Commission officials I interviewed spoke of the G20 (two thirds of the interviewees inside the Commission), often remembering how important it was at the time to show commitment to its agenda:

If you look at the G20 texts... we used to spend nights discussing a few words or lines, knowing [...that] it wasn’t binding. It was more about reinforcing the idea that we needed to work together.
(Interview Commission 4)

Though not directly related to the High Level Expert group’s work, these comments from officials inside the Commission provide some insight into the importance that the Commission, and in particular the President, attached to demonstrating commitment and leadership at the international level in the context of the Global Financial Crisis.

This may suggest some expansionist motivations. A comment of David Wright in an interview in April 2009 in relation to the Commission’s presence in the Financial Stability Forum (FSF), the international body overseeing micro-prudential supervision issues created by the G20, reflects the importance that DG Markt placed on being part of the standard setting work at international level:

By the way, in early March the European Commission managed for the first time to become a formal member of the FSF and I think this says a lot for the work done in DG Markt. That we have managed to get in there, is a major move forward. Our Director-General Jörgen Holmquist will represent the Commission in this very important body. (Wright, 2009).

But evidence of hyperbolic and repetitive wording in public interventions and official documents also suggests that the Commission, and in particular the President, wanted to emphasise the leadership capacity of the Commission – and by extension the EU – at international level.

This is significant because the Commission continued to perceive itself as under pressure to be seen to be taking action, throughout the decision-making process. As already highlighted in Chapter Four (see sections 4.1 and 4.2), the Commission as a whole as well as the President himself, were under pressure in the autumn of 2008, notably from the European Parliament, to take a much stronger stance on financial market supervision and regulation. The Commission continued to refute accusations that the EU, and by extension, the Commission had not reacted to the crisis. Commissioner Almunia, in his introductory speech at the Brussels Economic Forum event that the Commission organized on the 14th of May 2009, explained that:

The crisis has tested the resilience and rapid reaction of governments worldwide and many of them have responded with speed and intensity. The EU is no exception. Those who say that the EU, or the Commission, didn't react to the crisis are not taking into account what we did, and what we are doing. (Almunia, 14 May 2009).

Commissioner Almunia was not referring directly to any specific dimension of supervision. But his comment did highlight that criticism aimed at the EU for its lack of decisive action posed credibility threats to the Commission by extension.

The Commission's concern to demonstrate it was taking action by showcasing the de Larosière Report, is also evidenced by the way it presented itself in two events it

organized in May 2009. In early May 2009, the Commission organized an event – the High Level Conference “Towards a new supervisory architecture in Europe” – officially “as part of the consultation process on the future of EU financial supervision”. The event gathered industry representatives, representatives from think tanks, from the member states and a wide range of relevant actors. But the Commission remained vague on how the event’s discussions would feed into the final proposals:

The High Level Conference [is]... designed to enable a wide and open discussion on the future reform of the European supervisory framework and, as a result, to provide the Commission with valuable suggestions to improve the quality and comprehensiveness of its policy proposals.

Commissioner McCreevy’s opening speech welcomed “the turnout”, underlined that “your [participants] input is crucial” and that the Commission “welcome[s] these constructive comments and hope[s] to incorporate as many as possible to develop the best approach possible for European Supervision” (McCreevy 2009b). His words were vague on how the input would be used, which suggests that the event may have served the purpose of showcasing the Commission’s actions. This points to legitimacy concerns in relation to the indicator on steering.

This is confirmed by the way one official referred to this event unprompted in an interview I did in Brussels in March 2016; the person said: “...and then there was a big conference in May which was a way to share a bit the results, to engage a bit the stakeholders, with the member states” (Interview Commission 14). Internally, the event was remembered as a way to show the results rather than gathering input. Furthermore, the Commission chose to organize the event in the European Parliament, just weeks away from the European elections. From this perspective, this conference was a means of publicising the Commission’s work to wider audiences. The programme of the event tends to corroborate that the purpose was to demonstrate the Commission’s actions. Four of the keynotes were delivered by Commissioners McCreevy and Almunia, and the Director-General and Deputy-Director General of

DG Markt (COM 2009). This kind of signalling implies more legitimacy concerns for action in relation to the indicator on audiences.

Furthermore, a week later, the Commission was holding its flagship annual economic event, The Brussels Economic Forum. The event took place over two days, 14th and 15th of May 2009. The follow-up to the de Larosière Report recommendations was not listed as a topic of any of the panels with experts, but Jacques de la Larosière gave a keynote speech (de Larosière 2009d). De Larosière's presentation was scheduled on the programme at the most strategic point of the conference, 12:00-12:30, on the first day. He was listed and presented in his capacity as chair of the High Level Expert Group:

Jacques de Larosière, President, High-Level Expert Group on EU Financial Supervision; Chairman, Strategic Committee of the French Treasury, and Adviser to BNP Paribas (European Commission 2009b)

However, he was not asked to speak about the High Level Expert Group Report or its recommendations, notably on supervision. Instead, he was asked me to speak about the global economic situation and about regulatory issues (de Larosière 2009d). This suggests that the Commission may have been keen to demonstrate that it was collaborating with such a prestigious name (See Chapter Four, section 4.3), but that the detail of the recommendations and discussion on the reforms were of less interest. *Prima facie*, this would suggest legitimacy concerns. But it is important to underline the extent to which member states were perceived inside the Commission as very resistant to substantial reforms that would lead to a transfer of powers to the EU level or to further integration in matters of supervision. The Commission may have been exercising caution by remaining vague and avoiding detailed content, before it had secured the endorsement from the heads of state and government in the European Council. I come back to this in next section of this chapter.

Nevertheless, the manner in which the Commission presented itself at these events does suggest that a certain amount of posturing was involved. In the case of the Brussels Economic Forum, the Commission appeared to want to demonstrate its

association with eminent personalities, even though it chose not to have the High Level Expert Group report and its recommendations discussed. In the case of the 7th of May event in the EP, there is strong evidence that the Commission' principle motivation in organizing the event was to demonstrate that it had taken action, rather than any interest in gathering input or securing buy-in for the reforms.

6.1.2 The risk of a credibility gap

Throughout the autumn and early 2009, before the publication of the report, the Commissioners and the President of the Commission repeatedly referred to the de High Level Expert Group's work and to its anticipated results. Early on, in a speech to the EP plenary on the 21st of October 2008, Barroso spoke of cross-border financial supervision when he referred to the report that would be produced by the High Level Expert Group (Barroso 2008b). In the EP in December 2008, Commissioner McCreevy referred to his hopes that the de Larosière report would provide answers in matters related to hedge funds, to regulation and not only supervision, and that the work being done "in the Group chaired by Mr. de Larosière can be fed into the G20 work" (McCreevy 2008c). On 27th of January, Commissioner McCreevy added in a speech to the 7th Annual Financial Services Conference in Brussels that he "look[s] forward to the de Larosière Group bringing forward concrete proposals which will contribute to greater financial stability in Europe and help maximise protection for depositors, policy-holders and investors" (McCreevy 2009a). At the same conference, Commissioner Almunia, also referred to the de Larosière group in his speech outlining very ambitious hopes about securing a single supervisory agency at European level:

At the end of February, the High Level Group chaired by Jacques de Larosière will publish its report. I am hoping for ambitious proposals that – within the limits of the Treaty - will set out concrete actions to strengthen European supervisory arrangements. There is now a real necessity to have a single supervisory agency at EU level. (Almunia, 27 January 2009).

What started with quite vague and cautious language about “launch[ing] a reflection process in order to build common ground build common ground” in the announcement speech on the 8th of October 2008 (see also Chapter Four, section 4.1.2), had become invested with many “ambitious hopes” and anticipated results. These include cross-border financial supervision, regulation on prudential matters and conduct of business²⁹, and even the much debated issue of a single supervisory agency put forward by Commissioner Almunia. These various suggestions were indeed being discussed at the time in the High Level Expert Group, including single supervision, notably under the aegis of the European Central Bank (interviews with two members of the expert group confirm this); but many did not feature in the recommendations of the High Level Expert Group report when it was published late February 2009. The de Larosière Report did not put forward recommendations for single supervision (See Chapter Five, section 5.1.1), or for supervision of conduct of business in the ESFS.

It is, however, significant that the Commissioners were speaking so freely of anticipated results. It may suggest that they were using the existence of the High Level Expert Group to signal that the Commission was intent on taking bold and decisive action to more informed audiences – Commissioner Almunia made his hopes known at the Annual Financial Services Conference in Brussels, in front of an audience in the know about the subject matter. The de Larosière Report was referred to in order to show that the Commission was taking action as a result of the crisis. Setting up a High Level Expert Group had the advantage of demonstrating action but without the requirement of an immediate decision. But by being persistently being referred to, the forthcoming publication of the report by the High Level Expert Group generated expectations, notably amongst more informed audiences such as the policy community of experts dealing with monetary and financial governance.

In a speech delivered to representatives from national parliaments on the 12th of February 2009, Lorenzo Bini Smaghi, Board member of the European Central Bank, pointed to the “responsibility” of political leaders to take action on overhauling the

²⁹ Conduct of Business refers to supervision activities that deals with investor protection.

supervisory framework when he referred to the forthcoming report. He underlines the importance of international partners.

Restoring confidence in financial markets thus requires a substantial overhaul of the supervisory framework, both at national and European level. These changes call for political decisions, which are in your area of responsibility, at national and European level. Various bodies are examining the situation. In particular, the group chaired by Jacques de Larosière will deliver its report to the European Commission shortly (Bini Smaghi, 12 February 2009).

The risks to the credibility of the EU were well illustrated by some of the comments articulated by eminent experts and personalities in the transnational policy community of experts right after the publication of the de Larosière Report. At a conference in Brussels, Alexandre Lamfalussy called for speed, not procrastination, in the political adoption of the de Larosière Report recommendations. He was speaking a month after the publication of the report, on the 24th of March, and pointed out that “it would be irresponsible to miss this opportunity”:

The bargaining position of Europe vis-à-vis our partners can only be enhanced by demonstrating our ability to act decisively. It would be irresponsible to miss this opportunity. All the arguments are in favour of speed; none in favour of procrastination. (Lamfalussy 2009a)

He was giving a keynote speech at a widely publicised event organised by the Brussels think tank Bruegel and the IMF, in Brussels, late March 2009, and at which three other members of the High Level Expert Group and David Wright were panellists. The closing sentences of Lamfalussy’s speech highlight how, after much anticipation of the results of the High Level Expert Group’s work, the onus was on European decision-makers to act upon the recommendations once the report was published.

Amongst the most severe comments on the inability of the EU to step up in the face of the crisis, was the post by former NY Stock exchange director, economist, and

collaborator of Lamfalussy, George Ugeux, in a column in the French national newspaper *Le Monde* a week after the report was published:

If the de Larosière report means that Europe is not yet ready to accept a single authority.... it was the time for audacity, not for compromise. We have not risen to the occasion. In these areas, Europe will arrive in London in the same way as she arrived in Washington last year: full of good intentions, of general declarations, but without the least bit of credibility needed to enable the situation to move forward. (Ugeux 2009)³⁰

George Ugeux is referring to the G20 meetings in Washington in 2008 and London in 2009. Though his assessment may not have been widely read, his words do illustrate a common criticism that is directed at European decision-making.

The Commission appeared to be aware of the risks to its own credibility as an organization if the de Larosière Report should lead to inconclusive debates about reforms. In the speech Barroso gave at the joint press conference with Jacques de Larosière on the day the report was published, he explained:

But this is not about one meeting leading to another meeting or one report to another report. The Commission is determined to act. I am determined that the European Union should move forward this year with substantial reforms. We must not miss the chance to restore lasting confidence in the European and global financial system. (Barroso 2009a)

³⁰ I translated the post from French into English (perhaps put in annex the list of quotes that were translated):

« Si le rapport de la Rosière signifie que l'Europe n'est pas encore prête à accepter une autorité commune... C'était le rendez-vous de l'audace, pas celui des compromis. Nous l'avons manqué.

Dans ces domaines, l'Europe arrivera à Londres comme elle est arrivée à Washington l'année dernière : pleine de bonnes intentions, de déclarations générales, mais sans le minimum de crédibilité nécessaire pour faire évoluer la situation. »

Barroso's words pointed to the risks of such exercises³¹, especially given the context. The exercise is by definition lengthy and broad, advisory and non-binding. But the claims being made were about the need for swift and decisive action. After the report was published, a tension emerged in the decision-making process between delivering a solution swiftly to "restore confidence in the European and global financial system" in the line with the de Larosière Report, and securing buy-in for the reforms from the member state and a mandate from the European Council.

In summary, the analysis of the speeches and interventions delivered by the leadership of the Commission (President and Commissioners) highlights that the Commission was keen to show its international partners that it was capable of rising to the challenge posed by the crisis. It was explicit about its ambitions to showcase its influence and powers in international organizations and fora and often referred to the ESA reforms to demonstrate its actions. This appears to have derived from a perception that the EU, and by extension the Commission needed to show its capacity to deliver swift and decisive action. As an organization, this raised credibility issues, and it felt under pressure to be seen to be taking swift and decisive action, thus pointing to the possibility that legitimacy concerns may have played a role in motivating the Commission actions. This is somewhat substantiated by the way the Commission presented itself and the reforms at two events it organized in May 2009. However, the nature of the exercise of High Level Expert Group Reports, in conjunction with lengthy and consensus-based European decision-making processes, meant that the

³¹ In 1981, the former Prime Minister of Belgium Leo Tindemans, who himself had once chaired such a group and produced a report, ironized about the "process of building a library of forgotten reports" on improving the organization of the Community: "Frequent attempts have been made to improve the organization of the Community and we have had numerous reports. I hardly dare list them. The Vedel report, the Marjolin report, the Werner report, the Spierenburg report, the Tindemans Report and now the report of Three Wise Men³¹ – and that is only some of them. Are we perhaps in the process of building up a library of forgotten reports? If I were of the mandarin class I would propose writing a book entitled "remembrance of past reports", or perhaps publishing a dictionary of wasted European ideas." (Tindemans and Vlasman 2002, 122)

Commission was faced with a credibility gap once the de Larosière Report was published. The next section investigates how the Commission managed this tension.

6.2 Securing commitment to the reforms from the member states

After the publication of the de Larosière Report, speeches, communication material and official publications suggests that the Commission was seeking to convince the member states to endorse the ESA reforms. Much of the analysis in this section centres on how the Commission communicated and disseminated information around the publication of the May 2009 Communication. As a reminder, the Commission had published an initial Communication on the 3rd of March 2009, in which it announced its intention of putting forward reforms based in the de Larosière Report. The March 2009 Communication had a broader focus than the post de Larosière Report reforms. It also covered the economic and social reforms developed by the Commission to respond to the problems in the EU. But the May 2009 Communication, entitled “Communication European Financial Supervision”, outlined the Commission’s proposals for reform based on the de Larosière Report.

6.2.1 Securing buy-in from the member states

In the wake of the publication of the de Larosière Report, the Commission repeatedly referred to how it built its proposals for reform on the de Larosière Report recommendations. In speeches, the President and the Commissioners mention “building on the very useful recommendations of the De Larosière report” (Almunia 17 March 2009), that “we were able in the de Larosière Report to create a large consensus among professionals and political leaders, and I believe also in the European Council” (Barroso, 27 May 2009). The Commission appears to have used the report as ammunition to secure an agreement from the member states to endorse the proposals for reforming the institutional governance framework in the EU. In May 2009, McCreevy refers to this commitment of the member states: “The Heads of State and Governments at the Spring European Council already confirmed that a reform of the

European supervisory structure is needed – both on the micro and macro-prudential side. And that the proposals in the de Larosière report should be the basis for these reforms” (McCreevy 2009b).

On the day the Commission published the May 2009 Commission, it organized a press conference at which Barroso, McCreevy and Almunia delivered speeches. As evidenced by these speeches, the references to building on the report are coupled with a narrative around the urgency of action. In the press conference on the 27th of May, both McCreevy and Barroso referred to the need to *act* upon the report:

Let me be very clear about this. The reason why I established the de Larosière group last November was very simple. We needed to make a break with the past. There were many discussions for many years among finance ministers, among experts, many reports, but no real move forward. (Barroso, 27 May 2009).

I have been attending ECOFIN Councils since 1997. Improving supervisory cooperation has been on Ministers’ agendas even before then. And what has been achieved? Frankly very little. Lots of reports, lots of discussion but no real progress on the ground. (McCreevy, May 2009)

Barroso concludes his speech with strong language on no excuses for further delay – “[t]here is no room for more delays or equivocation. We only have one chance to get this right” (Barroso, 27 May 2009). In these speeches, the Commission appealed to the member states to quickly provide a mandate to proceed with the legislative proposals. The Commissioner for Internal Market, McCreevy, explained that he could get the legislative proposals published by the autumn of 2009 if the Council endorsed the proposals swiftly: “If the European Council gives a fair wind to our suggested approach then I would envisage that I should be able to come back in early Autumn with the legislative proposals to give effect to the architecture set out in today's communication” (McCreevy, 20-09). Barroso is even more explicit in his ambition to have the reforms implemented: “So I will be asking the European Council to endorse the new system and to commit to setting it up in 2010.” (Barroso, 27 May 2009).

The focus on the need to take swift and decisive action as a result of the de Larosière Report had been a feature of the Commission's communication since the day the report was published. Barroso, in the press conference he held on the day the High Level Expert Group handed over the final report to the Commission, referred to the need or immediate action

“We all agree that significant financial reform is necessary and urgent – at global level; in the EU...

This report is an important contribution for our work. It includes a number of significant proposals in areas where the Commission believes we need to act. ...

And let me be very clear: the report confirms my firm belief that a European system of Financial Supervision is indispensable. I am committed to engage immediately in its preparation. And this report provides a very good basis on which to build our proposals.

(Barroso, 25 February 2009)

The Commission referred to keeping a “sense of urgency” in bringing forth reforms after the publication of the de Larosière Report: “We cannot continue to ignore the urgency of establishing a supervisory architecture that takes account of these market development [blurring of distinctions between different types of financial intermediaries and increased cross-border integration]” (McCreevy, 7 May 2009). This suggests that the Commission communicated tactically to keep a sense of momentum for the reforms and keep pressure on the member states. This could suggest either instrumental concerns or power-maximization motivations, depending on whether the Commission was seeking buy-in for the reforms because it wanted to secure the most effective solution, or to expand its own competences and influence.

As was covered in Chapter Five, the Commission used the de Larosière Report recommendations to accelerate the transformation of the Lamfalussy Committees into European authorities (see section 5.1). But in the de Larosière Report, the aspects to do with the transformation of the Lamfalussy Committees into European authorities, pertaining to the alignment of supervisory rules with regulatory rules in the European Single Market, weren't necessarily considered part of the urgent responses to the crisis.

So the repeated calls for swift action by the Commission in the spring of 2009 to get the Council to endorse the reform proposals may reflect tactical communication to keep pressure on member states to endorse the principles for reform in line with the Commission's preferences. This would suggest power-maximization motivations rather than instrumental concerns. The Commission used the report somewhat like a menu, choosing to accelerate the transformation of the Lamfalussy Committees into Authorities even though this had not been a recommendation of in the report or a priority for the expert group members.

There is evidence that the Commission used the narratives around swift action strategically, as a means to frame its decision to transform the Lamfalussy Committees into European authorities, which reflected its preferences. The President clearly refers to this in his speech on the 27th of May 2009 when he appealed to the Council to endorse the reforms: "The main difference with what the Larosière group proposed is that we want to move faster. We want the new system in place in 2010 rather than 2012." (Barroso 2009c). This suggests that the Commission may have been acting by stealth, which would point to power-maximization concerns. This is somewhat corroborated by the lack of detail that the Commission was providing on the contents of the reforms in the May 2009 Communication. McCreevy concluded his speech on the 7th of May 2009 by repeating the urgency of action and the need to focus on the principles of the reforms first, not on the detail:

Another crucial issue is to ensure that we do not get lost in minute details. Right now, the important thing is to agree on the political objectives. [...] For the coming months, it will be important to retain this sense of urgency. (McCreevy 2009b)

The appeal to "not get lost in minute details" and to "retain the sense of urgency" points to strategic communication: the Commission may have been avoiding too much detail on the proposals for reform before it had secured a commitment from the member states, to reforming the institutional and governance framework of supervision at European level.

There is evidence that the Commission remained, to an extent, vague in providing technical detail and contents in its official Communication, perhaps to avoid too much push back from the industry too. In its response to the consultation on the May Communication, the Institute of Chartered Accountants in England and Wales (ICAEW), for instance, bemoaned the fact that the Communication of May 2009 was too vague and did not give enough details on the “powers” that would be given the Authorities:

We welcome the proposals from the EU Commission to establish an ESFS, but caution that the details of how this might work remain of key importance. [...] The proposals should include more details to enable stakeholders to understand how the ESFS will work in practice. The proposals are at present very broad and do not explain how the objectives would be achieved. For example, the paper is not clear which ‘powers’ would be granted to the Authorities, the paper only refers to ‘certain powers’. It would be very useful if the Commission could clarify what are these powers. (ICAEW 2009)

This response, calling for more detail on the powers and functioning of the ESFS, was submitted to the consultation on the May 2009 Communication. This response illustrates the concern at the time within the industry about the powers that would be granted to the ESAs and the “cautious support” to the Commission’s proposals (European Commission 2009c, 44) more generally. In Chapter Five, section 5.1.2, I highlighted how the Commission had chosen to accelerate the transformation of the Lamfalussy Committees into three European authorities, which the industry had not favoured (European Commission Impact Assessment 2009c). And contrary to what the industry had been advocating, the legislative proposals did include provision for the ESAs to be able to take measures directly applicable to financial institutions if the National Competent Authority (NCAs) had not applied the agreed regulation and rules (see Chapter Five, section 5.1.2). In May 2009, the Commission had already received many detailed contributions, with comments on “precise powers and compositions of both micro and macro supervisors” (McCreevy 2009b), in the 115 responses submitted as part of the consultation on the March 2009 Communication (see Annex 1: Sequence of the Decision-making process). The Commission chose to keep the proposals in the

May 2009 Communication broad, and did not provide details on the powers for instance of the ESFS.

Prima facie, this strategic communication could point to power-maximization concerns in relation to the indicator on audiences: the Commission would have targeted the member states, securing buy-in by stealth. However, it may also reflect skilled manoeuvring to coordinate those needed to ensure the best solution is adopted, which would suggest instrumental concerns. If there is evidence of the Commission sought to coordinate those actors needed to get the best answer, notably the High Level Expert Group, and those needed to move forward in the decision-making process, notably the member states, then this may suggest instrumental concerns.

6.2.2 Skilled manoeuvring to deliver the most efficient solution

The Commission's framing of the reforms mirrored the message of urgency in the de Larosière Report. The report's short *avant-propos* emphasised that "repair is necessary and urgent", that "Action is required at all levels – Global, European and National and in all financial sectors", and concludes with the following sentence: "We must begin work immediately" (De Larosière 2009a, 5). Furthermore, in an interview Jacques de Larosière gave to the *Financial Times* two weeks after the report was published, he insisted on the need for swift political action and mentioned leadership and determination as crucial to taking the report forward:

FT: What – for you personally – will be the most important and critical element to get done?

J de L: The thing I would stress is the importance of SWIFT [in original] implementation....

In a changing world and a very difficult one, we have to act swiftly.

We can't afford to be chewing on drafts and directives for years.

...This is what I think is of the essence. Act quickly with leadership and determination on the important things. (FT, 18 March 2009)

By enlisting de Larosière, the Commission may have sought to secure an ally to increase the chances of a successful buy-in for the reforms, which would point to more power-maximization motivations in relation to the indicator on audiences.

After the report was published, de Larosière spoke to the House of Lords European Union Committee on the 10th of March 2009 and to the French National Assembly the next day, on the 11th of March 2009. And in both cases he was very careful to tailor his responses to the political position of each country. For instance, in answering one of the questions in the Europe Committee in the British Parliament, he explained:

The "authorities" that would be the translation of the present Level 3 committees would be in our view endowed with limited but effective decision-making powers. (de Larosière, 10 March 2009)

But in answering the French Member of Parliament who asked why the group had chosen the “intergovernmental approach” de Larosière replied:

I would answer that we estimated that it would be more realistic and perhaps more efficient to proceed in this manner – it would cause too much disruption [to the existing Committees] to merge them into a single entity straight away. [...] Nevertheless, it will be necessary in future to group together the authority supervising banks and the authority supervising insurance and to create another one [...] for conduct of business.³² (de Larosière, 11 March 2009)

However, the suggestion that the Commission’s collaboration with de Larosière, and the other members of the expert group, is an instance of securing allies for power-maximization purposes requires nuancing.

As evidenced in interviews I did with two of the members of the High Level Expert Group and from a brief discussion with Jacques de Larosière, the expert group decided on “this more realistic” way of proceeding following their own assessment of political feasibility. Jacques de Larosière explained this in the interview he gave to the Financial Times: “if we had listed and focused on ‘ambitious’ proposals for the sake of being ideal and ambitious, but knowing that they would have very little chance of being acceptable, this would not have been a very good way of working.” (FT, 18 March

³² I translated this from the French: je répondrai que nous avons estimé plus réaliste et peut-être plus efficace de procéder de la sorte ce serait les bousculer que de les fondre tout de suite en une entité unique. [...] Pour autant, il faudra, à terme, regrouper l’instance de supervision des banques et celle des assurances, et en créer une autre chargée de la surveillance des marchés et de la protection des consommateurs et des investisseurs, selon le modèle de double régulation – twin peaks system »

2009). Furthermore, members of the High Level Expert Group personally promoted the report and called for implementing its recommendations in the weeks after its publication. For instance, three members (José Pérez Fernandez, Rainer Masera and Leszek Balcerowicz) spoke on a panel at a conference aimed at “policymaker and financial sector professionals” organized in Brussels on the 24th of March by the think tank Bruegel and the IMF (IMF/Bruegel 2009). They spoke in their capacity as experts having produced the High Level Expert Group Report on a panel that also include the rapporteur for the Report, David Wright. Callum McCarthy, the British member of the group, wrote in a column in the Financial Times, on the 30th of March 2009, that “the de Larosièrè recommendations provide a route map” for the much needed “dramatic acceleration of the progress” in providing the Lamfalussy Committees “with real teeth to their decisions (McCarthy 2009). This suggests that these experts were concerned about seeing the recommendations developed and put in place. From the Commission’s perspective, the organization may have been driven by the belief that it was working in conjunction with eminent experts to convince the member states, in order to deliver the best solution to the challenges raised by the crisis. This, a power-maximization reading of the collaborating with the members of the Expert Group does not provide a full picture of the Commission’s possible motivations. There is the possibility that the Commission shared the views of the expert group members that action was required and that building on the existing was the most efficient solution. This would point to instrumental concerns.

Speeches and documents conveyed the message that the Commission was adopting a pragmatic and evolutionary approach, building on the existing. The Commission used conciliatory language, explaining that it was “building on existing structures” and had opted for an evolutionary approach. For instance, in its May 2009 Communication of the reforms to financial market supervision, the Commission explained its approach to institutional development at European level as pragmatic and incremental:

The Commission recognises that there is a vigorous – and so far inconclusive – debate within many countries in the world on the most appropriate supervisory structure, with options including: (i) one single supervisor for all sectors, (ii) separate supervisors for prudential and conduct-of-business supervision for all financial

institutions combined (the so-called "twin peaks" model), and (iii) a sectoral approach (i.e., separate supervisors for banking, insurance companies and securities activities). However, in the Commission's view, at this point in time it is preferable to maintain the latter approach at European level, [...] the Commission will propose to build on the existing structure and, when necessary, allow it to evolve over time, with a review after a fixed number of years. (COM 252 final 2009, 12)

The Commission's official documents and communication focused on making the case for more European governance in matters of supervision in response to the problems of systemic risk highlighted by the crisis. In the first paragraph of the May 2009 Communication, "It would be inefficient to reinforce EU financial services regulation, while preserving a supervisory system that has showed multiple deficiencies in this crisis." (COM 252 final 2009, 1). The accompanying press release to the May 2009 Communication stated that, "The new system will help the EU and its Member States to tackle both problems with cross-border firms and the build-up of overall systemic risk" (COM IP/09/836 2009). The Commission couched the proposals for supervisory reforms in diplomatic language, underlining moderation, which suggests instrumental concerns to ensure it secured support.

The Commission also appeared to want to downplay any suggestion that the Commission may have been seeking to increase European powers in matters of direct supervision, or that reforms would lead to regulatory overburden. As pointed out by Barroso in his speech on the 27th of May:

At micro-level, the new European System of Financial Supervisors will enhance supervision of individual cross-border financial institutions. This is not, I insist, a centralising of power. We are not taking away national supervisors' day to day role. It is a partnership between national supervisors and new European Supervisory Authorities, themselves based on existing committees of Member State supervisors. (Barroso, 27 May 2009, underlined in the original script).

Three weeks earlier, McCreevy had clearly linked this pragmatic and evolutionary approach to principles of subsidiarity and proportionality:

We must be pragmatic and see what is best for the preservation of financial stability and the protection of consumers. However, any approach will need to be in line with the principles of conformity, subsidiarity and proportionality.

These two pillars [of the ESFS] allow for an evolutionary process to be developed for strengthening the European regulatory and supervisory framework. (McCreevy 2009b)

The “evolution not revolution” way of describing the Commission’s approach to integration in financial services was present in speeches and documents before the financial crisis and had become a way of describing the approach adopted by the Commission for integration of financial services. In 2001, *The Economist* commented favourably on the Lamfalussy Report using the exact phrase: “the wise men have adopted a pragmatic rather than a revolutionary approach, rightly eschewing the idea of a European Financial Services Authority except as a last resort.” (*The Economist* 2001). The 2005 White Paper on Financial Services states that “The Commission advocates an evolutionary approach, responding to demonstrated problems, striking the right balance between more efficient and consolidated supervisory arrangements and ensuring financial stability all over the EU” (COM(2005) 629 final 2005, 11). In a speech early September 2008, the Commissioner for Internal Market justified the decision not to make proposals for increasing the powers of the committees in the following manner: “I have advocated an evolution rather than a revolutionary approach. We also have to be pragmatic about what is achievable now” (McCreevy 2008b).

An official inside the Commission who worked directly on the de Larosière Report and legislative proposals told me in an interview that “the report was well calibrated in the sense that it was evolution not revolution, it was common sense, it didn’t go too far.” (Interview Commission 3). The person used the phrase twice to explain why the Commission did not propose a single supervisory authority. In matters of financial market integration, “evolution, not revolution”, had become a recurring soundbite that

captured a consensus about an acceptable way of proceeding. From this perspective, the narrative on adopting an evolutionary and pragmatic approach was consistent with the internal beliefs and organizational goals about how integration in financial services proceeds, and the role of the Commission in facilitating this process, as highlighted in Chapter Five, section 5.2.

Finally, the concerns about getting buy-in for the proposals were also mentioned by another official when he spoke of the President's position on being pragmatic about the proposals in order to secure buy-in:

Barroso was also somebody in the end who... I mean he also moved things forward but let's say he didn't come up with crazy ideas. He wanted to make sure it had reasonable prospects of going through the council and the parliament. (Interview Commission 7)

This comment on the position of the President hints at the possibility that the importance of securing buy-in from member states in the legislative process may have been because of perceptions about the credibility of the organization. There is a possibility that the President was also concerned about how the Commission would be perceived in case the proposals for reforms did not reach a successful outcome. Rather than indicating power-maximization or instrumental concerns only, successfully reaching an outcome may also tie in with credibility issues for the organization. This would point to a set of substantive goals inside the Commission that cannot be distilled to either instrumental or power-maximization goals in relation to the indicator on audiences.

It appears that the Commission sought to keep the pressure on member states once the report was published and focused its communication persuading member states to provide the Commission with a mandate. By framing the reforms in a narrative of urgency and keeping the proposals vague, the Commission may have sought to secure buy-in for the proposals by stealth, or to ensure that the best solution be delivered. The Commission also appeared to use conciliatory language, once again targeting specifically the member states. This could suggest both instrumental concerns and

power-maximization concerns. The next section investigated how the Commission sequenced and steered the decision-making process with a view of disentangling the possible motivations for action.

6.3 Steering: a standard but accelerated decision-making process

The reforms at European level to create the ESAs followed a standard European decision-making process. Interviewees inside and outside the Commission all describe the process as “ordinary”. In 2008-2009, European decision-making processes regarding institutional reforms to govern the financial sector were still consensus-based and relatively lengthy. A Brussels-based expert, who works for one of the leading think tanks pointed out that at the time of the ESA reforms, the EU’s survival as a whole had not yet been tested by the Eurozone debt crisis. According to this person the situation of crisis had not yet led to “deviating” from the way decisions were made at European level when the ESA reforms were being discussed:

The change in perception, in thinking at the European level certainly hadn’t taken place at this point. The idea that we are in crisis which is quite fundamental, that you actually have to deviate from the traditional European policy-making which is basically characterised by a lot of consensus and continuity; you couldn’t envisage that before the Euro crisis. You couldn’t envisage for instance doing this against the will of a participating member state. And also the speed with which things will have to happen. Things were still at a much more leisurely speed. The Commission worked on a proposal it had put in its annual work programme, then it went to the Council and eventually went to the Parliament, comitology procedure, etc. And things took a couple of years normally. Whereas once the Eurozone crisis had properly started, people had to make decisions on a WE, looking at what the markets were going to do on the Monday. (Expert, Brussels-based think tank)

As this quotation highlights, European decision-making processes are relatively slow-paced and follow a number of formal rules in the build-up to the publication of a legislative proposal. Furthermore, proposals are consensus-based and substantial reform proposals require that the European Council endorse them in principle before the Commission takes any initiative. One official involved in the ESA reforms explains that despite “the sense of urgency developing because of the crisis [...] it still took about three years between when the crisis started, went into full blow and when the decisions were taken at EU level and the ESA regulations came into force” (Interview ESA official).³³ This changed with the Eurozone debt crisis in 2010-2011, when, as described by one Commission official I interviewed, the “house was on fire”.

The Commission followed a standard decision-making process for the ESA reforms (see Annex 1: Sequence of the Decision-making process). After the Commission published two Communications and held two consultations in spring 2009, the European Council endorsed the main points of the Communication in June 2009, which gave the Commission the mandate to proceed with preparing legislative proposals. And as outlined in Chapter Four, section 4.3, setting up a High Level Expert Group, though not a systematic way of proceeding, is nevertheless a regular feature of the Commission’s decision-making.

After the publication of the de Larosière Report, the Commission steered the process following all the standard procedures, but in such a manner so as to speed up the decisions at each step of the process. The way in which the Commission steered the process suggests instrumental concerns. As one official inside DG Markt explains:

The Commission felt quite rapidly that there was a need to revamp completely the way we are handling financial services and decided very rapidly to put together the High Level Expert Group which led to the de Larosière report. Because I checked the dates again, it was quite fast actually. The de Larosière report came out in March 2009. By the end of March, the Commission had a first Communication and then there was a big conference in May which was a way to

³³ The Banking Union and creating the Single Supervisory Mechanism (SSM) in 2011-2012, took less than a year.

share a bit the results, to engage a bit the stakeholders with the member states. And the legislative proposal came. It was very quick. (Interview Commission 14)

Furthermore, the way in which the Commission steered the decision-making process corroborates instrumental concerns in relation to the indicator on timing: acting swiftly to get the resources to deliver the right answer as quickly as possible. For instance, this is evidenced by the way in which the Commission steered the timetable for gathering external knowledge. Regarding the de Larosière Report, Barroso acknowledged the limited time given to the experts to produce the report, in a joint press conference with Jacques de Larosière on the day the report was published (25th of February 2009):

Mon cher Jacques de Larosière, I admit I have tasked you with an almost impossible mission – asking the Group to come forward with its report on the future of European supervision and regulation in barely 4 months! But in fact you have done it and I congratulate you for that. (Barroso 2009a)

This highlights the urgency with which the Commission wanted the results of the report and suggests a certain tension between the instrumental concerns of knowledge input and swift delivery. A member of the de Larosière expert group also spoke of this tension and explained they had no time to call in much external expertise (Expert Group Member 1). The tension between knowledge input and swift delivery was also apparent in the Commission's steering of the consultations in the spring of 2009. In both cases, the timeframe was unusually short – one month each. The Commission justified the short window for submitting a contribution with the need to act urgently because of the situation of crisis (Commission website page for the consultation).

However, as covered in Chapter Two, section 2.1, the Commission has the power to initiate legislation at European level, but proposals usually derive from a mandate drawn up by the co-legislators, and increasingly from the European Council (Bickerton, Hodson, and Puetter 2015). Thus, the Commission's acceleration of the standard decision-making process appears to suggest instrumental concerns about coordinating those needed to deliver the solution. By accelerating the formal decision-

making process, the Commission was able to coordinate those needed to get the best answer (external expertise) and those needed to move forward in the decision-making process (the member states) which would point to instrumental concerns.

The Commission appears to have acted strategically in relation to how it steered the decision-making process. As highlighted in the previous section, the Commission appears to have used the de Larosière Report as ammunition to persuade member states to endorse the reforms. The expert group report had always been foreseen as material for the Spring European Council of 2009. Indeed, it was inscribed in the timeline set by the Commission in the expert group's mandate (Annex 1 of De Larosière 2009a) and expressed in speeches (Barroso 2008b). There is evidence that the Commission was very tactical in how it sequenced the decision-making process, first by taking control of the agenda-setting phase by setting up the High Level Expert Group (see Chapter 5), and secondly, by attempting to keep hold of the agenda for reform throughout the decision-making process. Indeed, it created an additional stage in the decision-making process between the publication of the report and the European Council in March 2009, namely the March 2009 Communication, in which it first introduced an accelerated agenda for the transformation of the Lamfalussy Committees into European authorities. The acceleration of the sequencing in the decision-making process appears to have been a matter of strategic importance for the Commission to keep political momentum for reforms, and to secure commitment to reform financial supervision in the Council. From this perspective, this would point to power-maximization concerns in relation to the indicator on timing: the Commission acts swiftly to take advantage of a window of opportunity to position itself so as to increase its influence and powers.

Nevertheless, evidence from interviews suggests that swift action may also be due to other motivations, and that instrumental and legitimacy concerns may have played a role. In an interview with an official inside DG Markt, the response given in relation to the decision to accelerate the timetable points to a certain degree of signalling. This official, who was closely involved in the ESA reforms, explained that the Commission acted to *show* that it was “putting concrete and operational mechanisms” in place to prevent another crisis:

Interviewer: How come the Commission did not decide to delay the transformation of Committees into Authorities?

Respondent: I think it was largely political to *show* that the EU as a whole, not only the Commission, but the EU is delivering in fighting the crisis and one of the big chunk for fighting the crisis was the financial supervision system. So we wanted to *show* that we were putting concrete and operational mechanisms to avoid that some of the mistakes that led to the crisis were able to repeat again.

(Interview Commission 3)

In reference to how quickly the Commission steered the decision-making process to get the legislative proposals on the ESAs published, another Commission official involved in the reform process inside DG Markt explained in an interview:

It was very quick. Which shows that the Commission is capable of the worst and the best when it wants. It was super fast. Even after, the whole negotiations took one year which was amazing. Looking back after six or seven years, all that was possible thanks to the crisis actually. There was a global feeling that it was necessary to change it all, and deeply and rapidly. There was also strong commitment and good will from the legislative authority. So too from the member states and the Parliament, who were willing to move rapidly. It is less true today for instance. But at the time, the financial crisis was so hard, so severe ...I mean the context was so dramatic, there was a willingness to move rapidly. (Interview Commission 14)

The quotation of an official who worked on the ESA reforms inside DG Markt first suggests instrumental concerns in relation to steering. The person points to the context of the crisis as the reason why, politically, it was possible to move fast. This quotation also highlights how dependent the Commission is on factors such as context, the willingness of the co-legislators and, indeed, its own organizational commitment to “wanting” to take deep and rapid action. It confirms that the Commission was indeed aware of the “global feeling that it was necessary to change it all”, including inside the administrative services. Section 6.1. in this chapter highlighted the existence of

internal perceptions about how the international community doubted the capacity of the Commission to take swift and decisive action. Finally, as highlighted in the quotation from this interview with an official inside DG Markt, the ESA reforms were considered the Commission at its “best”. This suggests that there was a perception inside the organization that the Commission did rise to the challenge, and perhaps confound the doubts about whether it was capable of showing leadership in the context of the Global Financial Crisis. This is consistent with the internal perception that the Commission acted in the best interests of perhaps reluctant member states when putting forward the ESA reforms (see Chapter 6, section 5.3.2).

Finally, beyond the need to show the international partners that the EU, and by extension the Commission, were capable of swift and decisive action, the Commission may also have been paying attention to perceptions of the Commission at domestic level in the EU. Though this transpired less in interviews with officials inside the Commission, the context of upcoming European elections may also have played a role in the Commission’s decision to accelerate the decision-making process. This is put forward as an explanation in a speech early June 2009 by Commissioner McCreevy, when he was speaking at a conference in the US in June 2009:

The political mood is restless. We are in a different stage in our political cycle to you. You have a new administration and we are coming to the end of a political cycle in the EU. So we had to act in the EU. Given that we were coming to the end of a political cycle in the EU, with the European Parliament elections later this week and a new European Commission later this year, if we had delayed, we would have lost a year. And that would not have been acceptable to the European people. (McCreevy 2009c)

In this speech, McCreevy was justifying why the EU had moved so swiftly on some regulatory reforms without consulting its partners in the G20 more extensively; he was not necessarily referring only to the changes in supervisory governance. But McCreevy’s words suggest that the Commission was concerned about signalling swift action to the general public in a year of elections: delay would “not have been acceptable to the European people”. Though there is evidence that the Commission, in

particular inside DG Markt, saw the context of crisis as a window of opportunity to set in motion reforms to financial supervision in the EU, either as a means to push for its own agenda (power-maximization in relation to timing) or to deliver what it believed was needed to palliate the shortfalls in the supervisory governance (instrumental concerns), there is also strong evidence that the Commission perceived itself under pressure to be seen to be taking action.

As a final reflection on this issue around credibility, it is worth unpacking the talk around the Global Financial Crisis as being both an opportunity and proof that action was needed to reform financial supervision at European level. The Commission leadership often made references to “the window” opened by the crisis (Almunia 2009b; McCreevy 2008a). In the speech Barroso gave on the day of the publication of the May 2009 Communication, he insisted that “Now it is time for action. It will be now or never, if we cannot reform the financial sector, financial supervision, when we have a real crisis when will we reform it?” (Barroso, speech May 2009).

As highlighted by Barroso’s words, the narrative around the “crisis as an opportunity” implies prescription for action. Crises are ‘make or break’ moments that test governments and decision-makers’ ability to come out of the woods of uncertainty and complexity. Though the crisis is an opportunity for reform, these opportunities cannot be missed or left unexploited in the context of a crisis because of the issue of credibility. Alexandre Lamfalussy articulated this idea clearly when he talked of irresponsible behaviour if the opportunity to act upon the de Larosière Report were left unexploited speaking March 2009: “it would be irresponsible to miss this opportunity. All the arguments are in favour of speed; none in favour of procrastination” (Lamfalussy 2009a).

Opportunity and urgency of action became two sides of the same coin in the Commission’s communication. After the publication of the de Larosière report, this appeared to be tactical framing to secure buy-in for the Commission’s proposals for reform, notably from the member states. But securing commitment to action and an endorsement of the principles for reforms from the European Council had become an issue of credibility for the organization. Perceived credibility risks and the need to

signal the Commission's capacity to act swiftly and respond decisively in the context of crisis may also have underpinned the Commission's accelerated steering of the decision-making process. And in this case, legitimacy concerns would also have motivated its action in relation to the ESA decision-making.

Conclusions

The Commission perceived pressure to show the international community that the EU was capable of collective and decisive action. As an organization, this raised credibility issues, and it felt under pressure to be seen to be taking swift and decisive action. But the nature of the exercise of High Level Expert Group Reports, in conjunction with lengthy and consensus-based European decision-making processes, meant that the Commission was faced with a credibility gap once the de Larosière Report was published.

The Commission focused much of its communication around the reforms after the publication of the de Larosière Report on securing commitment to action from the member states. Tensions played out in the way the Commission communicated on the reforms: on the one hand there was talk about ambitious and swift reforms and the urgency of delivering a workable solution, on the other, tactical communication aimed at securing buy-in for the reforms. Even if the talk was all about swift action and showing a capacity to act in the face of exceptional circumstances, the Commission and the European level are not institutional and decision-making structures that allow for swift action. Formal decision-making processes are lengthy and technocratic, and change is incremental. Furthermore, any proposal has to be satisfactory for the member states. This opens the possibility that the Commission may have acted strategically to put pressure on the member states to secure buy-in for the reforms not only for power-maximization aims, but for instrumental concerns reasons too.

But the analysis of talk and the promotional events organized by the Commission also point to a perceived credibility risk: empty words with no subsequent action. From this perspective, securing commitment to action, notably from the member states, and delivering the reforms, became a matter of credibility for the Commission. The Commission conveyed messages that suggest that they were concerned with credibility risks to the organization, and by extension to the EU. Wording reflected concerns about the ability to act collectively, to act swiftly (issue of lengthy and cumbersome decision-making processes) and to provide an ambitious solution (not just lip service with the report). The concern about being seen to be delivering swift and ambitions

reforms was compounded by the context of crisis because it required that politicians and leaders be seen to be taking action.

Chapter 7 Conclusions

The thesis has provided an investigation of motivations that guide action inside the European Commission, with both empirical findings and implications for the plausibility of theories of Commission action. Having first established that the Commission's actions in response to the supervisory reforms post Global Financial Crisis have largely been neglected in scholarship, the thesis set out to empirically investigate possible motivations that drove Commission's actions in the specific case of the reforms to create the ESAs. Exactly ten years ago, the European Commission published its legislative proposals to create three European Supervisory Authorities (ESAs) as part of the European System of Financial Supervision (ESFS), in what was labelled as institution-building as result of the Global Financial Crisis (Chatzimanoli 2011b; Wymeersch 2012; Ferran 2012).

Drawing from existing approaches to organizational behaviour, the thesis investigated whether the Commission was driven by instrumental, power-maximization or legitimacy concerns. Instrumental concerns assume a problem solving logic of action that is driven by considerations of finding the best possible solution to a problem, albeit taking into account possible political, financial or institutional constraints. Power-maximization concerns imply actions that are driven by motivations to gain power, maximize control or expand an organization's mandate. Both instrumental and power-maximization approaches assume that actors are driven by the calculations of consequences of their actions (consequentialism), be it with the aim of finding the best solution to given problems or to maximize their influence and resources. The thesis added a third understanding, less explored in the literature on the Commission behaviour, that derives from a logic of appropriateness: action is driven by the organisation's understanding of how best to sustain legitimacy. Organizational action is aimed at conforming to a set of institutionalised rules and beliefs in order to secure legitimacy in the organization's environment. All three accounts assume actors behave in a rational way, but each has a different understanding of the types of considerations or logics driving organizational action. To uncover the possibility of different motivations for action, it therefore required an investigation of motivations for action in decision-making from within the Commission.

Following a broad analysis of the assumptions about organizational behaviour in different theoretical approaches, including in rational choice literature, European integration and broader theories in International Relations that build on constructivist approaches, the thesis proposed an alternative theoretical approach grounded in sociological approaches to organizational analysis in New Institutionalism (NI). Adopting an NI approach allows for studying how organizations perceive expectations and pressure in their environment and act accordingly. As such this framework supports an empirical investigation of all three possible motivations that guide organizational action – instrumental, power-maximization and legitimacy concerns – starting from inside the Commission.

Because identifying these different approaches to motivations for action through empirical research is a challenge, the thesis presented five different indicators to support the analysis; these indicators provide a means to capture observable characteristics of different motivations for action in decision-making to do with *timing* (how swiftly an organization seeks to act), *audiences* (whom the organization targets), *substance* (how the organization selects and uses input), *who is involved* (the human resources and knowledge that the organization draws on), and *steering* (how closely the organization guides deliberations).

First, the framework of indicators developed for the empirical analysis of different approaches to motivations for action enables the researcher to engage with a richer set of substantive goals than assumed by most approaches to organizational behaviour. And secondly, it provides a means for presenting the complexity of decision-making in systematic manner, thereby opening avenues for exploring variation across different policy areas, decision-making contexts or between different organizations.

7.1 Empirical Findings

In early October 2008, in the midst of considerable turmoil in global and European financial markets, the President of the European Commission called upon eight high level independent experts to produce a report on Financial Supervision in the EU (the de Larosière Report). Published at the end of February 2009, the de Larosière Report

became the building block for the Commission's proposal to create a European System of Financial Supervision (ESFS) in the EU, including regulations to create three ESAs, published in September 2009. To explore the Commission's motivations for action in this specific decision-making process, the focus of the empirical analysis was on the agenda-setting and drafting phases of the legislation, in the build-up to the publication of the legislative proposal.

The empirical analysis was divided in such a way as to enable the investigation of the three approaches to motivations for action in different aspects of the decision-making: first, the agenda-setting phase; secondly, the internal work on selecting input and drafting the contents of the legislative proposals; and thirdly, on how the Commission interacted with external actors throughout the decision-making process, after the initial agenda-setting phase. For each of these different aspects of the decision-making process, the analysis was carried out based on the selection of a subset of relevant indicators to gauge the prevalence of the three approaches to motivations for action.

Much of the empirical analysis broken down per subset of indicators yields evidence of power-maximization and instrumental concerns. For instance, the behaviour of the leadership and officials who drafted the legislative proposal could also be due to concerns to ensure that the best solution is delivered given the constraints the Commission was operating under – consensus-based and lengthy decision-making. Inside the Commission services, at the level of DG Markt, power-maximization motivations could also explain behaviour. The tactical use of the High Level Expert Group, both to position itself in the decision-making process and as a means to secure buy-in for long wanted reforms, would suggest power-maximization. Nevertheless, the analysis based on the indicators on audiences and substance highlight the difficulties in disentangling instrumental and power-maximization concerns for action. In conjunction with the evidence that credibility concerns also played a role, this indicates that behaviour cannot be fully accounted for by either instrumental or power-maximization approaches to organizational action.

At the agenda-setting phase, a detailed investigation of the Commission's official position before the autumn of 2008 points to instrumental concerns in relation to the indicator on timing. In taking the decision to set up the High Level Expert Group

chaired by Jacques de Larosière, the leadership, in particular the President of the Commission, was driven by an internal sense of needing to address the problems highlighted by the crisis, and to provide a solution, given its perceptions of the magnitude of the problems and the constraints the Commission was operating under. In relation to the indicator on steering at the agenda-setting phase, the choice of the exercise of a High Level Expert Group and the initial vagueness of the mandate also tends to substantiate instrumental concerns. Strong leadership at the agenda-setting phase is consistent with instrumental accounts that derive from a neofunctionalist approach to European integration, in which leadership is a determinant of the Commission's ability to exploit spillovers to push for further integration (Dyson and Featherstone 1999a; Verdun 1999b). But Barroso's stronger engagement, in particular in relation to over-ruling the Commissioner for Internal Market, also points to concerns about legitimacy risks for the Commission.

Typically used as instruments to provide for broad reflections on medium to long term reforms to overall institutional questions, the use of such a high level ad hoc expert group at that specific point in time suggests signalling and more symbolic action too, pointing towards legitimacy concerns. Indeed, after the bankruptcy of Lehman Brothers mid-September 2008, the European banks and banking system came very close to collapse in October 2008. Whereas immediate interventions were needed to shore up the financial and banking system in October and November 2008, broad reflections on medium-term reforms to the institutional governance frameworks were less of an urgent matter. The decision to set up such a group at that specific point in time does suggest that the Commission perceived a certain amount of pressure to be seen to be taking action, in particular at the level of the leadership. Notwithstanding the fact that a crisis is a moment of great flux, that puts the spotlight on the huge shortfalls and structural problems that require answers, such a crisis is a moment in which decision-makers need to be seen to doing something to respond to issues that have been framed as requiring action, and under time pressure.

Furthermore, such an exercise had the benefit of signalling action without the immediate need to act upon the recommendations of the report. Under pressure from the European parliament and with the credibility of the Commission as an influential

actor in transnational governance of financial markets being questioned by the transnational policy community of experts, the setting up of the HLEG provided the Commission with a certain amount of prestige: it signalled its capacity to secure eminent personalities and experts on banking supervision and in turn, its own relevance. Thus, the decision to set up the High Level Expert Group also stemmed from a certain amount of posturing from the Commission in a context in which financial supervision was politically salient and it perceived pressure to be seen to be taking action. The decision may not only be as a result of a transformation in the understanding of how to deal with the issues at stake – a sense-making process in a context of crisis to do with reducing uncertainty and provide an authoritative answer about what needs to be done in terms of policy (Saurugger 2016). The decision to set-up the High Level Expert Group also stemmed from responding to perceived legitimacy risks and pressure to signal rapid action.

However, more obvious strategic behaviour played out in the behaviour of the Directorate-General for Internal Market and Services (DG Markt), which provided the Commission with a ready-made solution in a context in which the organization was under pressure to be seen to be taking action. In doing so, the DG appeared to have reinforced its influence and centrality in the reforms for supervisory governance, a number of politically skilled and connected officials in the higher echelons inside DG Markt appear to have used the window of opportunity to put the Commission at the centre of a drive towards an institutional reform to the supervisory governance in the EU which points towards power-maximization motivations. Having first put forward the idea of setting up a High Level Expert Group and even suggested the name of the Chair, these officials then fulfilled the administrative support role of the group's work.

Prima facie, the power-maximization motivations inside DG Markt play out to a certain extent in the analysis of the way the Commission made use of the High Level Expert Group's report once it was published in February 2009. The analysis of the actions *inside* the Commission in relation to the indicator on substance does appear to substantiate power-maximization motivations inside the Commission, especially at the level of DG Markt. First, this is confirmed by the manner in which the Commission used the input from the de Larosière Report to accelerate the transformation of the

Lamfalussy Committees into European authorities, disregarding or strategically selecting aspects of the de Larosière Report and the outcome of the consultations in the spring of 2009. Secondly, the Commission used the recommendations of the de Larosière Report to increase the organization's decisional powers in matters of crisis prevention and enforcement of direct sanctions on National Competent Authorities (NCAs), which suggest power-maximization motivations. It also used the de Larosière Report strategically to push for an institutional set-up – the three European Authorities – that would place the organization in a stronger position to keep control over the production of regulation in relation to supervisory matters, in particular for DG Markt.

Nevertheless, the power-maximization understanding is a little too reductive. The Commission's expansionist agenda in matters of supervision reflected a rules-based understanding of supervision: provided the right rules are in place and the Commission has the powers to ensure consistent implementation, the system will function efficiently. This is more consistent with ideational approaches developed in political economy; the role of ordoliberal ideas (Blyth 2002) about supervisory governance may be more constitutive of DG Markt's preferences than power or influence maximization derived from a narrower understanding of the DG as regulatory entrepreneurs (Pollack 2003, 2007), intent on increasing their influence.

Furthermore, the power-maximization approach does not fully account for the way in which the officials inside the Commission speak of their work and goals in relation to the ESA reforms. This reflects a richer set of motivations than expanding competences at the expense of the national level, that points to the importance of internal narratives and beliefs about the organization's broader role. Officials inside DG Markt were very explicit in expressing the expansionist ambitions of their services in relation to the role of the ESAs in the framework of the Single Market process in financial services. But Commission officials explained their tactical behaviour drawing on learned experience and beliefs about how the process in financial integration takes place. They also talked of moving forwards with supervisory integration as being the right thing to do in a context in which European interests align with providing a solution to the supervisory failures of the crisis. From this perspective, the actions of DG Markt mirrored the internal organizational goals about further integrating the Single Market in financial

services. This suggests that underpinning tactical behaviour, there is a strong organizational ideology about the value of integration in financial services, coupled with a belief in proceeding incrementally and building on the existing. Thus, the Commission appears to have been driven by what it considers a natural or logical development of a system of rules and regulations that benefit all member states, a process at the service of which the Commission places its expertise and work: the Single Market in financial services. The step by step approach, as the *modus operandi* for developing the internal market in financial services, represents a shared belief internally about how integration develops and provides a strong narrative that underpins organizational action.

This is further substantiated by the way in which officials talk of their experience working on the ESA reforms and the pride they took in having contributed to bringing these reforms to completion. The manner in which officials spoke of their work suggests that they do not perceive their actions as being motivated by maximizing the Commission's power or DG Markt's influence, and points to substantive goals that go beyond a rational calculation to gain more influence and resources. Perspectives that engage with strategic actors pushing for an increase in powers and influence cannot fully account for the way in which those involved speak of their work and organizational goals.

The analysis carried out in relation to the indicator on audiences in Chapter Six, may again, *prima facie*, appear to corroborate power-maximization concerns. The manner in which the Commission interacted with actors in its environment, after the publication of the de Larosière Report, suggests that it was focusing on securing buy-in for the reforms from the member states. Nevertheless, tensions were evident in the way the Commission communicated on the reforms: on the one hand there was talk about ambitious and swift reforms and the urgency of delivering a workable solution, on the other, tactical communication aimed at securing buy-in for the reforms, notably from member states. This suggests that instrumental concerns were at play.

Indeed, even if the talk focused on swift action and showing a capacity to act in the face of exceptional circumstances, the Commission and the European level are not institutional and decision-making structures that allow for swift action. Formal

decision-making processes are lengthy and technocratic, and change is incremental. Furthermore, any proposal has to be satisfactory for the member states. This opens the possibility that the Commission may have acted strategically to put pressure on the member states to secure buy-in for the reforms not only for power-maximization aims, but for instrumental concerns reasons too. Indeed, the Commission appears to have been driven by a concern to coordinate input from experts capable of providing a political and technical solution (High Level Expert Group), and the co-legislators, notably the member states, in order to ensure delivery of the proposals; this points to instrumental concerns.

Finally, though, the role of credibility concerns in securing buy-in for the reforms from member states may suggest, once again, that a richer set of motivations underpin the Commission's actions in the decision-making process. Opportunity and urgency of action became two sides of the same coin in the Commission's communication. After the publication of the de Larosière report, this appeared to be tactical framing to secure buy-in for the Commission's proposals for reform, notably from the member states. But securing commitment to action and an endorsement of the principles for reforms from the European Council had become an issue of credibility for the organization. Perceived credibility risks and the need to signal the Commission's capacity to act swiftly and respond decisively in the context of crisis may also have underpinned the Commission's accelerated steering of the decision-making process.

If there was some evidence at the agenda-setting phase that the Commission President in particular was acting as a result of a perceived need to be seen to be taking action, the ability of the Commission to show its capacity for decisive and swift action became a matter of credibility in late 2008 and early 2009. The analysis of talk and the promotional events organized by the Commission points to a perceived credibility risk. In particular, the Commission perceived pressure to show the international community that the EU was capable of collective and decisive action. As an organization, this raised legitimacy issues, and it felt under pressure to be seen to be taking swift and decisive action. But the nature of the exercise of High Level Expert Group Reports, in conjunction with lengthy and consensus-based European decision-making processes, meant that the Commission was faced with a credibility gap once the de Larosière

Report was published. The concern about being seen to be delivering swift and ambitious reforms was compounded by the context of crisis because it required that politicians and leaders be seen to be taking action. From this perspective, securing commitment to action, notably from the member states, and delivering the reforms, also became a matter of credibility for the Commission; there was concern about how the Commission would be perceived in case the proposals for reforms did not reach a successful outcome, notably on the part of the President. Rather than indicating power-maximization or instrumental concerns only, successfully reaching an outcome may also tie in with legitimacy issues for the organization. This would point to a set of substantive goals inside the Commission that cannot be distilled to either instrumental or power-maximization goals in relation to the indicator on audiences.

To sum up, at the agenda-setting phase, power-maximization evidence is less prominent than may have been expected given the mainstream assumption that the Commission's significance in the decision-making process stems from its agenda-setting. Power-maximization concerns appear to have played a much more significant part at the drafting phase of the decision-making process, which, *prima facie*, substantiates the existing work done on the role of middle-management in the Commission (Bauer 2008; Hartlapp, Metz, and Rauh 2014). However, a power-maximization perspective doesn't engage with the narratives and beliefs that underpin the expansionist agenda of the Commission in relation to the ESA reforms. The empirical analysis is more consistent with an interpretation that centres on the role of organizational culture (Ban 2013) or ideology (Brunsson 2002) as underpinning organizational behaviour. The internal narrative about the Single Market process represents something akin to an organizational myth or cognitive map (Weick, 1985), that framed the way the DG Markt made sense of its role, and provided guidance for action. The capacity of the Commission, and in particular DG Markt, to reinterpret the solution of three European supervisory agencies in light of the new problems highlighted by the crisis was underpinned by a shared internal belief about the benefits of the Single Market process.

Furthermore, there is evidence that the Commission acted out of legitimacy concerns, notably because of the perception that it needed to be seen to be taking action in the

context of crisis. It engaged in a certain amount of signalling in particular in the early stages of the decision-making process. The political leadership of the Commission, notably the President of the Commission, appears to have been particularly keen to demonstrate the organization's capacity to take action and leadership throughout the decision-making process because of a certain amount of concerns about the organization's credibility.

More broadly, in suggesting that decision-making is driven by a richer set of substantive goals than can be captured by any one of the approaches alone, the empirical analysis highlights the difficulty in disentangling the different motives. In the case of the Commission, this is compounded by the fact that the Commission's culture appears to be very bound up with both instrumental and power maximising goals. On the one hand, it is explicit in its expansionist ambitions, to go beyond the lowest common denominator and deliver solutions that reinforce its powers or influence, as one of the core institutions in the increasingly complex rules-based governance of European financial supervision. On the other hand, it calibrates proposals and draws on input in order to achieve the best possible solution given its assessment of the political and policy context, notably the degree of resistance or buy-in from member states. And it does so because it perceives that if a proposal fails to survive the decision-making process, then it would reflect negatively on its own capacities and organizational role. From this perspective, instrumental and power-maximization goals are effectively internalised as part of the Commission's organisational culture. It is the internal belief systems and perceptions of its role that underpin the evidence of both instrumental and power maximising goals. These beliefs about effective governance and how the Commission is the best placed organization to deliver this, are in turn bound up with how the Commission seeks external support and legitimacy.

7.2 Theoretical implications

These findings have implications for the theoretical plausibility of the three theories for explaining Commission behaviour. The specific organizational characteristics of

the Commission make it a particularly vulnerable organization in a context in which it perceives pressure to be taking swift and decisive action. And the Commission appears to have managed different expectations simultaneously in the decision-making process. Different units inside the Commission engaged in different forms of legitimation-seeking behaviour, both to reflect institutionalised norms about expected behaviour in the environment, and to deliver output in the form of a tangible reform to the governance structures of European financial supervision (Brunsson, 2002). The Leadership, and in particular the President of the Commission, reflected expectations in the environment mainly through talk. DG Markt was most effective in coordinating its services to deliver output, the ESA legislative proposals, driven by a strong organizational culture and beliefs about the Single Market process. In the case of the ESA reforms, an existing solution was, to a certain extent, reframed to fit a new problem in a process of “recombination” (Kingdon, 1995).

More broadly, the empirical analysis confirms that the theoretical approach adopted in this thesis is best equipped to understand and explain the more complex configuration of motivations underpinning the Commission’s actions. NI provides a richer theoretical framework and methodological perspective for unpacking what are more complex motivations than are assumed by instrumental and power-maximization approaches. And the indicators developed for the purpose of analysis in this thesis support the investigation of a richer and more complex picture of what motivates the Commission’s action in decision-making.

According to an NI approach, organizations respond not only to other actors pursuing material interests in the environment but also to normative and cultural forces that shape how organizations see the world and conceptualize their own missions. NI offers a theoretical basis for understanding the sources of organizational preferences in the organizational environment; it conceptualises how *perceptions* of expectations shape organizational action. Organizational forms and behaviours reflect prevailing values and beliefs in the environment that have become institutionalized. Cultural rules constitute actors, thus defining legitimate goals for them to pursue and affecting action and meaning. Having identified a problem, actors inside organizations will act according to the appropriate rules expected under such a circumstance. And it is the

numerous taken-for-granted rules and scripts that exist in the wider organizational environment that shape and frame what appropriate action actually entails. The NI approach moves beyond a focus on action that derives from the calculated self-interests of organizational actors, or from the imperatives of instrumental functionality. Instead, it emphasises that organizations seek legitimacy, and highlights the role of cognition and obligation, not (only) self-interest. NI offers a much more dynamic and highly contextualised conceptualisation of organizational behaviour and puts the actors involved inside the IO at the centre of any empirical research on motivations for action. As such, this theoretical approach calls for a methodology that investigates action from inside the organization, to uncover how actors perceive pressures and talk about their actions.

Because it offers a theoretical framework that does not derive from an initial ambition to explain or analyse the influence of an organization in the decision-making process, it provides a basis for the study of organizational behaviour that is not simply a derivative of assumptions developed to analyse and explain autonomy or influence of the Commission, or indeed other IOs, in decision-making. It provides a means to start from the organisation's preferences and motivations regardless of whether these lead to an increase in autonomy or influence, which is the primary concern of much of the literature that engages with the behaviour of IOs. By starting from the distinctive features of the Commission as an international organization, characterised by its vulnerability and fragile basis for legitimation, and through a methodology that explores how the Commission perceives pressures and expectations about what it should be doing and how it should behave, the theoretical approach adopted in this thesis steps out of the debate about which actor drives European integration. Instead it offers a theoretical basis for understanding the Commission's behaviour that both takes into account the specificities of its environment and organizational make-up, but without confining it to the context of the European decision-making process.

In other words, instead of expanding on existing concepts lifted from theoretical approaches that aimed at explaining autonomy or influence in European integration (neofunctionalism and LI) or as a normative power (Manners 2002), this theoretical approach starts from a different premise: organizations seek legitimacy in their

environment first and foremost. As such, it offers a theoretical framework that could also be applicable to the study of motivations for action in other International Organizations.

7.3 Implications for different policy areas.

Exploring motivations for action at the agenda-setting phase and drafting phase of the legislation has provided understanding of how the proposals take on the shape they do inside the Commission before they are published. The case study has focused on the internal decision-making in the Commission in the specific policy areas of supervisory governance of financial services and an example of institution-building in the form of new European agencies. By developing a framework of indicators that can support the systematic and comprehensive investigation of different possible motivations for action, the thesis offers a framework for the empirical investigation of motivations for action in decision-making processes related to different policy areas and different decision-making contexts.

The indicators all pertain to broad characteristics that feature in organizational decision-making. They engage with internal dynamics, how the organization engages with audiences in its environment, its uses of expertise internally and externally as well as the swiftness with which it seeks to deliver and the substance of proposals. The characteristics of the policy area of financial supervision are specific: though technical, it also has a legacy of political resistance from member states to delegate and success of financial supervision is difficult to observe and attribute to the Commission's actions. Other policy areas, less clearly linked to the Single Market for instance, but equally difficult to measure or to attribute to the Commission's actions and even more jealously guarded by the member states, such as foreign policy, may yield interesting insights. Inversely, it may also be interesting to observe any variation in cases of policy area in which attribution is more easily done, but nevertheless embedded in a broad and somewhat vague organizational mission, as is the case with Cohesion policy for instance.

Furthermore, given the evidence that the culture of the DG plays a strong role, there is a case for investigating the extent to which internal narratives and beliefs about the

role of the organization underpin power-maximization or instrumental concerns, regardless of the policy area. Finally, the case study has focused on the specific context of the 2008-2009 Global Financial Crisis. It may also be relevant to explore the Commission's motivations for action in decision-making processes that take place in different context of crises, such as the migration crisis and the UK's referendum to leave the European Union. This may prove to be an interesting systematic investigation to understanding the Commission's motivations for action in context of crises, using a sociological approach. This is all the more relevant as scholarship is engaging with the politics of crisis in the EU in a manner that suggests it may be swift becoming a defining feature of its governance (Webber 2019; Schmidt 2015; Geddes 2018; Saurugger 2016).

Annex 1: Sequence of the Decision-making process

From setting-up the de High Level Expert Group to the publication of the legislative proposals creating the ESAs.

Date	Sequence of the decision-making process
8 October 2008	Barroso announces he is setting up a High Level Expert Group on Financial Supervision in the EU and names the chair – Speech in EP Plenary
12 November 2008	1st meeting of the High Level Expert Group in Brussels, at the Berlaymont
25 February 2009	Publication of the de Larosi�re Report
4 March 2009	Commission Communication that includes references to reforming governance architecture for supervision in the EU: “Driving EU recovery” and how it takes up on the de Larosi�re report recommendations
10 March 2009	Commission launches Consultation on the de Larosi�re Report and on the Communication “Driving European Recovery”
10 April 2009	End of Consultation on Communication “Driving European Recovery”
27 May 2009	Publication of the Communication “Reforming financial supervision”
	Commission launches Consultation on the Communication “Reforming financial supervision”
End of June 2008	End of consultation on Communication “Reforming financial supervision”
7 June 2009	ECOFIN Council endorses principles of reforms
23 September 2009	Commission publishes the proposals for regulation creating the ESAs

Annex 2: Interview Guide

I developed an “indicative list of questions” for the interviews with officials inside the Commission with the aim to:

- Gather evidence on whether the Commission perceived itself as under pressure from actors its environment, and if so to identify which ones;
- Gather evidence on who the Commission talked to most;
- Uncover any *ceremonial* or *ritualistic* dimensions of the decision-making process
- Understand the degree to which there is continuity and change in the people involved in financial market supervision reforms over time;
- Uncover the rationale for putting forward in the ESA reform proposals in 2008-2009
- Gather evidence on the narratives used to explain their work on the reforms in 2009 (i.e. how the interviewees *make-sense* of the process and the ideas they draw upon to explain/interpret the process);
- Uncover whether there is a gap between what is *said* and the *content* of the policy reform proposals.

The following list of questions was sent to interviewees at least 48 hours ahead of interviews with officials inside the European Commission. I titled the document “Indicative list of questions”.

Questions to do with your role:

1. Could you describe your experience in the European Commission working on financial market integration and notably your experience working on the Lamfalussy secretariat?
2. In relation to the 2009 reforms on Financial market supervision and notably the creation of the ESAs, what was your role in the European Commission?

Questions to do with the process:

1. In general, where did the impetus for reforming the supervision of financial activities come from? What was the policy and political context surrounding the reforms on financial market supervision and the creation of the ESAs?

2. How interlinked was the de Larosière Report with the Commission's work on developing the proposals for reforms?
3. Why did the Commission call upon de Larosière and other experts to produce a report? And how are these experts selected?
4. Who was in charge of steering the reforms inside the Commission (Commission President, Commissioner for Internal Market, "Permanent steering Group on the financial crisis",...)?
5. Would you describe the process of setting up the reforms and in particular the three ESAs as out of the ordinary? And if so, in what way?

Questions to do with the ESA proposals:

6. What were the main policy aims that underpinned the creation of the ESAs?
7. Where did the suggestion for creating three Arm's length Authorities come from and was the possibility of a Single Supervisory considered at any point in the preparation?
8. How did the Commission/those in charge of creating the authorities envisage the distinction between the advisory role to the Commission (notably on technical standards) and the role of bringing about supervisory convergence?
9. To what extent would you say there was continuity in policy thinking on financial market supervision between the periods before and after the Global Financial Crisis in 2007-2008

Annex 3: Composition of High Level Expert Groups by professional background

Report	Liikanen	De Larosière	Lamfalussy	Delors	Segre
Number of members	11	8	7	17	12
Central banker	1 (the chair)	4 (including chair)	3 (including chair)	14	0
Private banks	5	1	1	0	8
Minister for finance/economic affairs	0	1**	1	5*	0
Other financial institution	0	1	1		1
Academia	3	1	0	1 (Thygesen-DK)	2
European Commission		0	0	2 (including chair)	1 (Chair)
Other	Gallois (FR industry), Goyens (EU CSO) and Sargeant (UK Treasury)	McCarthy (UK supervisory authority)	Wicks (UK Treasury civil servant)	Lamfalussy (BIS)	0
<p>* the five with political experience were: Delors, Andriessen, Boyer, Azeglio Ciampi and Duisenberg. With the exception of Delors, all were also central bankers.</p> <p>** Onno Ruding had been a banker and Minister for Finance</p>					

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